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# Police Act 1997

## 1997 CHAPTER 50

An Act to make provision for the National Criminal Intelligence Service and the National Crime Squad; to make provision about entry on and interference with property and with wireless telegraphy in the course of the prevention or detection of serious crime; to make provision for the Police Information Technology Organisation; to provide for the issue of certificates about criminal records; to make provision about the administration and organisation of the police; to repeal certain enactments about rehabilitation of offenders; and for connected purposes. [21st March 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1** Act: power to modify conferred (E.W.S.) (2.4.2001) by [2000 c. 39, s. 7\(2\)](#); [S.I. 2001/766, art. 2\(1\)\(a\)](#) (subject to the transitional provisions and savings in [art. 3](#))  
Act amended (13.8.2001, to the extent as mentioned in art. 2 of the Commencement Order, 1.10.2007 in so far as not already in force) by [2000 c. 23, ss. 72\(4\)\(d\), 83\(2\)](#) (with [s. 82\(3\)](#)); [S.I. 2001/2727, art. 2](#); [S.I. 2007/2196, art. 2\(h\)](#)

### Commencement Information

- I1** Act partly in force at Royal Assent, see s. 135

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**PART I**

THE NATIONAL CRIMINAL INTELLIGENCE SERVICE

*The Service Authority*

**F11 The Service Authority for the National Criminal Intelligence Service.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Functions*

**F12 General functions of the NCIS Service Authority and NCIS.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F13 Objectives.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F14 Service plans.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F15 Annual reports.**

.....

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Director General and other members*

**F16 Appointment of Director General.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F17 Removal of Director General by the Authority.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F18 Deputy Director General.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F19 Members of NCIS.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F19A Removal of certain members appointed under section 9**

.....

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**Textual Amendments**  
F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Functions of Director General*

**F1 10 General function of Director General.**  
.....

**Textual Amendments**  
F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 11 Reports by Director General to the Authority.**  
.....

**Textual Amendments**  
F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 12 Responsibility for co-ordination of police and Security Service activities.**  
.....

**Textual Amendments**  
F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Service Authority’s officers and employees*

**F1 13 Officers and employees.**  
.....

**Textual Amendments**  
F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

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**F1 14 Appointment of clerk.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 15 Appointment of persons not employed by the NCIS Service Authority.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Financial provisions*

**F1 16 NCIS service fund.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 16A Budget statement**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 17 Grants from the Secretary of State**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

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**F1 17A Provision supplemental to section 17**

.....

**Textual Amendments**  
F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 18** .....

**Textual Amendments**  
F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 18A Financing by the Scottish Ministers**

.....

**Textual Amendments**  
F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 19 Charges.**

.....

**Textual Amendments**  
F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 20 Acceptance of gifts and loans.**

.....

**Textual Amendments**  
F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 21 Pensions and gratuities.**

.....

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**Textual Amendments**

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>21A Accounts**

.....

**Textual Amendments**

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*General provisions*

**<sup>F1</sup>22 Collaboration agreements.**

.....

**Textual Amendments**

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>23 Aid by and for NCIS.**

.....

**Textual Amendments**

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>24 Provision of special services.**

.....

**Textual Amendments**

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

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*Central supervision and direction*

**F125 General duty of the Secretary of State and the Scottish Ministers**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F126 Setting of objectives.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F127 Setting of performance targets.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F128 Codes of practice.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F128A Codes of practice for Director General of NCIS**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))



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**F129 Removal of Director General etc.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F130 Power to give directions to NCIS Service Authority**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F131 Reports from NCIS Service Authority.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F131A Power to give directions as to action plans**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F131B Procedure for giving directions by the Secretary of State**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F131C Procedure for giving directions by the Scottish Ministers**

.....

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F132 Reports from Director General.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F133 Criminal statistics.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F134 Inquiries.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F134A Regulations for NCIS**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F135 Regulations as to standard of equipment.**

.....

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>36 Common services.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Discipline and complaints*

**<sup>F1</sup>37 Discipline regulations.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>38 Appeals.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>39 Complaints.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>40 Information as to the manner of dealing with complaints etc.**

.....

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*Miscellaneous*

**<sup>F1</sup>41 Arrangements for consultation.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>42 Liability for wrongful acts of constables etc.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>43 Causing disaffection.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>44 Orders governing NCIS Service Authority.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

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*General*

**<sup>F1</sup>45 Orders and regulations.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>46 Interpretation of Part I.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**PART II**

**THE NATIONAL CRIME SQUAD**

**Modifications etc. (not altering text)**

**C2** [Pt. II](#) (ss. 47-90): Power to continue conferred (11.5.2001) by [2001 c. 16](#), [ss. 109\(2\)\(c\)\(i\)](#), 138

*The Service Authority*

**<sup>F1</sup>47 The Service Authority for the National Crime Squad.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Functions*

**<sup>F1</sup>48 General functions of the NCS Service Authority and the National Crime Squad.**

.....

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 49 Objectives.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 50 Service plans.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 51 Annual reports.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Director General and other members*

**F1 52 Appointment of Director General.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 53 Removal of Director General by the Authority.**

.....

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>54 Deputy Director General.**

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>55 Members of the National Crime Squad.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>55A Removal of certain members appointed under section 55**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Functions of Director General*

**<sup>F1</sup>56 General function of Director General.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>57 Reports by Director General to the Authority.**

.....

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Service Authority’s officers and employees*

**<sup>F1</sup>58 Officers and employees.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>59 Appointment of clerk.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>60 Appointment of persons not employed by the NCS Service Authority.**

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Financial provisions*

**<sup>F1</sup>61 NCS service fund.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))



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**F1 61A Budget statement**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 62 Grants from the Secretary of State**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 62A Provision supplemental to section 62**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 63 Initial financing of NCS Service Authority.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 64 Charges.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 65 Acceptance of gifts and loans.**

.....

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>66 Pensions and gratuities.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>66A Accounts**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>67 Revenue accounts and capital finance.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>68 Financial administration.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Special services*

**<sup>F1</sup>69 Provision of special services.**

.....

**Status:** Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Central supervision and direction*

**F170** **General duty of Secretary of State.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F171** **Setting of objectives.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F172** **Setting of performance targets.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F173** **Codes of practice.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F173A** **Codes of practice for Director General of NCS**

.....

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F174 Removal of Director General etc.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F175 Power to give directions to NCS Service Authority**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F176 Reports from NCS Service Authority.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F176A Power to give directions as to action plans**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F176B Procedure for giving directions under sections 75 and 76A**

.....

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*  
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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>77 Reports from Director General.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>78 Criminal statistics.**

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>79 Inquiries.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>79A Regulations for NCS**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>80 Regulations as to standard of equipment.**

.....

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 80A Regulation of procedures and practices**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Discipline and complaints*

**F1 81 Discipline regulations.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 82 Appeals.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 83 Complaints.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**F1 84 Information as to the manner of dealing with complaints etc.**

.....

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

*Miscellaneous*

**<sup>F1</sup>85 Arrangements for consultation.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>86 Liability for wrongful acts of constables etc.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**<sup>F1</sup>87 Causing disaffection.**

.....

**Textual Amendments**

**F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

**88 Application to NCS Service Authority of local authority enactments.**

Schedule 6 (which amends local authority enactments applying to police authorities so as to apply those enactments in a similar way to the NCS Service Authority) shall have effect.

**Commencement Information**

**I2** [S. 88](#) partly in force; [s. 88](#) not in force at Royal Assent, see [s. 135](#); [s. 88](#) in force for certain purposes at: 23.7.1997 by [S.I. 1997/1377](#), [art. 4](#); 31.10.1997 by [S.I. 1997/2390](#), [art. 2](#) (with [arts. 3-7](#) (of which [arts. 4-7](#) were revoked (1.4.1998) by [S.I. 1998/354](#), [art. 7](#))); 1.4.1998 by [S.I. 1998/354](#), [art. 2](#)

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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### *General*

#### **F<sup>2</sup>89 Orders and regulations.**

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##### **Textual Amendments**

- F2** S. 89 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 96, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd)

#### **F<sup>3</sup>90 Interpretation of Part II.**

.....

##### **Textual Amendments**

- F3** S. 90 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 96, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd)

## **PART III**

### AUTHORISATION OF ACTION IN RESPECT OF PROPERTY

##### **Modifications etc. (not altering text)**

- C3** Pt. 3 (ss. 91-108) amended (S.) (29.9.2000) by [2000 asp 11, s. 24\(2\)\(b\)](#) (with s. 30); S.S.I. 2000/341, **art. 2**
- C4** Pt. 3: power to apply (with modifications) conferred (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. **19(2)(b)**; S.I. 2002/2306, **art. 2(b)(v)**
- C5** Pt. III modified (1.4.2004) by [The Independent Police Complaints Commission \(Investigatory Powers\) Order 2004 \(S.I. 2004/815\)](#), arts. 1(1), **2**

### *The Commissioners*

#### **91 The Commissioners.**

- (1) The Prime Minister [<sup>F4</sup>after consultation with the Scottish Ministers], shall appoint for the purposes of this Part—
  - (a) a Chief Commissioner, and
  - (b) such number of other Commissioners as the Prime Minister thinks fit.
- (2) The persons appointed under subsection (1) shall be persons who hold or have held high judicial office within the meaning of [<sup>F5</sup>Part 3 of the Constitutional Reform Act 2005 or are or have been members of the Judicial Committee of the Privy Council].
- (3) Subject to subsections (4) to (7), each Commissioner shall hold and vacate office in accordance with the terms of his appointment.



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- (4) Each Commissioner shall be appointed for a term of three years.
- (5) A person who ceases to be a Commissioner (otherwise than under subsection (7)) may be reappointed under this section.
- [<sup>F6</sup>(6) Subject to subsection (7), a Commissioner shall not be removed from office before the end of the term for which he is appointed unless—
  - (a) a resolution approving his removal has been passed by each House of Parliament; and
  - (b) a resolution approving his removal has been passed by the Scottish Parliament.]
- (7) A Commissioner may be removed from office by the Prime Minister if after his appointment—
  - (a) a bankruptcy order is made against him or his estate is sequestrated or he makes a composition or arrangement with, or grants a trust deed for, his creditors;
  - (b) a disqualification order under the <sup>M1</sup>Company Directors Disqualification Act 1986 or [<sup>F7</sup> the Company Directors Disqualification (Northern Ireland) Order 2002], or an order under section 429(2)(b) of the <sup>M2</sup>Insolvency Act 1986 (failure to pay under county court administration order), is made against him [<sup>F8</sup>or his disqualification undertaking is accepted under section 7 or 8 of the Company Directors Disqualification Act 1986][<sup>F9</sup>or under the Company Directors Disqualification (Northern Ireland) Order 2002]; or
  - (c) he is convicted in the United Kingdom, the Channel Islands or the Isle of Man of an offence and has passed on him a sentence of imprisonment (whether suspended or not).
- (8) The Secretary of State shall pay to each Commissioner [<sup>F10</sup>, other than a commissioner carrying out functions as mentioned in subsection (8A),] such allowances as the Secretary of State considers appropriate.
- [<sup>F11</sup>(8A) The Scottish Ministers shall pay to any Commissioner who carries out his functions under this Part wholly or mainly in Scotland such allowances as the Scottish Ministers consider appropriate.]
- (9) The Secretary of State shall, after consultation with the Chief Commissioner [<sup>F12</sup>and subject to the approval of the Treasury as to numbers], provide the Commissioners [<sup>F13</sup>and any Assistant Surveillance Commissioners holding office under section 63 of the Regulation of Investigatory Powers Act 2000][<sup>F14</sup>, other than any Commissioner carrying out functions as mentioned in subsection (9A),] with such staff as the Secretary of State considers necessary for the discharge of their functions.
- [<sup>F15</sup>(9A) The Scottish Ministers shall, after consultation with the Chief Commissioner, provide any Commissioner who carries out his functions under this Part wholly or mainly in Scotland with such staff as the Scottish Ministers consider necessary for the discharge of his functions.]
- (10) The decisions of the Chief Commissioner or, subject to [<sup>F16</sup>section 104], any other Commissioner (including decisions as to his jurisdiction) shall not be subject to appeal or liable to be questioned in any court.

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[<sup>F17</sup>(11) Subsection (10) is not to be read as affecting the jurisdiction of the Tribunal conferred by section 65 of the Regulation of Investigatory Powers Act 2000 or section 23 of the Regulation of Investigatory Powers (Scotland) Act 2000.]

#### Textual Amendments

- F4** Words in s. 91(1) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(a)**; S.I. 1998/3178, **art. 3**
- F5** Words in s. 91(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 17 para. 27**; S.I. 2009/1604, **art. 2(e)**
- F6** S. 91(6) substituted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(b)**; S.I. 1998/3178, **art. 3**
- F7** Words in s. 91(7)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 169** (with art. 10)
- F8** Words in s. 91(7)(b) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 22(2)**; S.I. 2001/766, **art. 2(1)(a)** (subject to the transitional provisions and savings in art. 3)
- F9** Words in s. 91(7)(b) inserted (E.W.S.) (with application in accordance with art. 1(2) of the amending S.I.) by The Insolvency Act 2000 (Company Directors Disqualification Undertakings) Order 2004 (S.I. 2004/1941), art. 1(2), **Sch. para. 10**
- F10** Words in s. 91(8) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(c)**; S.I. 1998/3178, **art. 3**
- F11** S. 91(8A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(d)**; S.I. 1998/3178, **art. 3**
- F12** Words in s. 91(9) inserted (25.9.2000) by 2000 c. 23, s. 82, **Sch. 4 para. 8(1)(a)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F13** Words in s. 91(9) inserted (25.9.2000) by 2000 c. 23, s. 82, **Sch. 4 para. 8(1)(b)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F14** Words in s. 91(9) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(f)**; S.I. 1998/3178, **art. 3**
- F15** S. 91(9A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(g)**; S.I. 1998/3178, **art. 3**
- F16** Words in s. 91(10) substituted (13.3.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 150(2)**, 185(1)(2)(a) (with ss. 21, 33, 42, 58, 75, 93)
- F17** S. 91(11) inserted (13.3.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 150(3)**, 185(1)(2)(a) (with ss. 21, 33, 42, 58, 75, 93)

#### Modifications etc. (not altering text)

- C6** S. 91(3)-(8) applied (25.9.2000) by 2000 c. 23, **s. 63(5)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

#### Commencement Information

- I3** S. 91 wholly in force at 22.2.1999; s. 91 not in force at Royal Assent see s.135; s. 91 (1)-(9) in force at 1.9.1997 by S.I. 1997/1930, **art. 2**(with art. 2(3)); S. 91(10) in force at 22.2.1999 by S.I. 1999/151, **art. 2**

#### Marginal Citations

- M1** 1986 c. 46.  
**M2** 1986 c. 45.

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## Authorisations

### 92 Effect of authorisation under Part III.

No entry on or interference with property or with wireless telegraphy shall be unlawful if it is authorised by an authorisation having effect under this Part.

### 93 Authorisations to interfere with property etc.

- (1) Where subsection (2) applies, an authorising officer may authorise—
- (a) the taking of such action, in respect of such property in the relevant area, as he may specify,
  - <sup>F18</sup>(ab) the taking of such action falling within subsection (1A), in respect of property outside the relevant area, as he may specify, or]
  - (b) the taking of such action in the relevant area as he may specify, in respect of wireless telegraphy.
- <sup>F19</sup>(1A) The action falling within this subsection is action for maintaining or retrieving any equipment, apparatus or device the placing or use of which in the relevant area has been authorised under this Part or Part II of the Regulation of Investigatory Powers Act 2000 or under any enactment contained in or made under an Act of the Scottish Parliament which makes provision equivalent to that made by Part II of that Act of 2000.
- (1B) Subsection (1) applies where the authorising officer is a <sup>F20</sup>National Crime Agency officer]<sup>F21</sup> giving an authorisation on an application made by virtue of subsection (3) (b)(i), <sup>F22</sup>an officer of Revenue and Customs]<sup>F23</sup>, an immigration officer]<sup>F24</sup> or the chair of the Competition and Markets Authority] with the omission of—
- (a) the words “in the relevant area”, in each place where they occur; and
  - (b) paragraph (ab).]
- (2) This subsection applies where the authorising officer believes—
- (a) that it is necessary for the action specified to be taken <sup>F25</sup>for the purpose of preventing or detecting] serious crime, and
  - <sup>F26</sup>(b) that the taking of the action is proportionate to what the action seeks to achieve.]
- <sup>F27</sup>(2A) Subsection (2) applies where the authorising officer is the Chief Constable or the Deputy Chief Constable of the <sup>F28</sup>Police Service of Northern Ireland] as if the reference in subsection (2)(a) to preventing or detecting serious crime included a reference to the interests of national security.
- [ Where the authorising officer is the <sup>F30</sup>chair of the Competition and Markets <sup>F29</sup>(2AA) Authority], the only purpose falling within subsection (2)(a) is the purpose of preventing or detecting an offence under section 188 of the Enterprise Act 2002.]
- (2B) The matters to be taken into account in considering whether the requirements of subsection (2) are satisfied in the case of any authorisation shall include whether what it is thought necessary to achieve by the authorised action could reasonably be achieved by other means.]
- (3) An authorising officer shall not give an authorisation under this section except on an application made—

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- [<sup>F31</sup>(za) if the authorising officer is within subsection (5)(a) to (c)—
- (i) by a member of the officer's police force; <sup>F32</sup>...
  - (ii) in a case where the chief officer of police of that force (“the authorising force”) has made an agreement under [<sup>F33</sup>section 22A] of the Police Act 1996 with the chief officer of police of one or more other police forces, by a member of a collaborative force; [<sup>F34</sup>or
  - (iii) in a case where the chief officer of police of the authorising force has made an agreement under that section with the Director General of the National Crime Agency, by a National Crime Agency officer (but see subsection (3AA));]
- [<sup>F35</sup>(zb) if the authorising officer is within subsection (5)(d), by a constable of the Police Service of Scotland;]
- (a) if the authorising officer is within [<sup>F36</sup>subsection][<sup>F37</sup>(5)(e).][<sup>F38</sup>(ea) or (ee)], by a member of his police force,
- [<sup>F39</sup>(aa) if the authorising officer is within subsection (5)(eb) to (ed), by a member, as the case may be, of the [<sup>F40</sup>Royal Navy Police], the Royal Military Police or the Royal Air Force Police;]
- [<sup>F41</sup>(b) if the authorising officer is within [<sup>F42</sup>subsection (5)(f)—
- (i) by] a [<sup>F43</sup>National Crime Agency officer], [<sup>F44</sup>or
  - (ii) in a case where the Director General of the National Crime Agency has made an agreement under section 22A of the Police Act 1996 with the chief officer of police of one or more police forces, by a member of a collaborative force;]
- (d) if the authorising officer is within subsection (5)(h), by [<sup>F45</sup>an officer of Revenue and Customs][<sup>F46</sup>, <sup>F47</sup>...
- [<sup>F48</sup>(da) if the authorising officer is within subsection (5)(ha), by an immigration officer;]
- (e) if the authorising officer is within subsection (5)(i), by an officer of the [<sup>F49</sup>Competition and Markets Authority].]
- [<sup>F50</sup>(ea) if the authorising officer is within subsection (5)(ia), by a staff officer of the Police Investigations and Review Commissioner.]
- <sup>F51</sup>(f) .....
- [<sup>F52</sup>(3A) For the purposes of subsection (3)(za)(ii)—
- (a) a police force is a collaborative force if—
    - (i) its chief officer of police is a party to the agreement mentioned in that provision; and
    - (ii) its members are permitted by the terms of the agreement to make applications for authorisations under this section to the authorising officer of the authorising force; and
  - (b) a reference to a police force is to the following—
    - (i) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);
    - (ii) the metropolitan police force; and
    - (iii) the City of London police force.]
- [<sup>F53</sup>(3AA) A National Crime Agency officer may make an application by virtue of subsection (3)(za)(iii) only if permitted by the terms of the agreement mentioned in that provision to make applications for authorisations under this section to the authorising officer of the authorising force.

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- (3AB) For the purposes of subsection (3)(b), a police force is a collaborative force if—
- (a) its chief officer of police is a party to the agreement mentioned in that provision, and
  - (b) its members are permitted by the terms of the agreement to make applications for authorisations under this section to the authorising officer mentioned in that provision.

Paragraph (b) of subsection (3A) applies for the purposes of this subsection.]

[<sup>F54</sup>(3ZA) An authorisation under this section may be given by the authorising officer within subsection (5)(ia) only where it relates to the taking of action in pursuance of paragraph (b)(i) of section 33A of the Police, Public Order and Criminal Justice (Scotland) Act 2006.]

<sup>F55</sup>(3B) .....

<sup>F55</sup>(3C) .....

<sup>F55</sup>(3D) .....

<sup>F55</sup>(3E) .....

- (4) For the purposes of subsection (2), conduct which constitutes one or more offences shall be regarded as serious crime if, and only if,—
- (a) it involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose, or
  - (b) the offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more,

and, where the authorising officer is within subsection (5)(h), [<sup>F56</sup>the conduct] relates to an assigned matter within the meaning of section 1(1) of the <sup>M3</sup>Customs and Excise Management Act 1979 [<sup>F57</sup>or, where the authorising officer is within subsection (5)(ha), any of the offences is an immigration or nationality offence].

(5) In this section “authorising officer” means—

- (a) the chief constable of a police force maintained under section 2 of the <sup>M4</sup>Police Act 1996 (maintenance of police forces for areas in England and Wales except London);
- (b) the Commissioner, or an Assistant Commissioner, of Police of the Metropolis;
- (c) the Commissioner of Police for the City of London;
- [<sup>F58</sup>(d) the chief constable of the Police Service of Scotland, or any deputy chief constable or assistant chief constable of the Police Service of Scotland who is designated for the purposes of this paragraph by the chief constable;]
- (e) the Chief Constable or a Deputy Chief Constable of the [<sup>F28</sup>Police Service of Northern Ireland];
- [<sup>F59</sup>(ea) the Chief Constable of the Ministry of Defence Police;
- (eb) the Provost Marshal of the [<sup>F60</sup>Royal Navy Police];
- (ec) the Provost Marshal of the Royal Military Police;
- (ed) the Provost Marshal of the Royal Air Force Police;
- (ee) the Chief Constable of the <sup>F61</sup>British Transport Police;]

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- [<sup>F62</sup>(f) the Director General of the National Crime Agency, or any other National Crime Agency officer who is designated for the purposes of this paragraph by that Director General;]
  - [<sup>F63</sup>(h) an officer of Revenue and Customs who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000 and who is designated for the purposes of this paragraph by the Commissioners for Her Majesty's Revenue and Customs;]<sup>F64</sup> ...
  - [<sup>F65</sup>(ha) an immigration officer who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000 and who is designated for the purposes of this paragraph by the Secretary of State;]
  - [<sup>F66</sup>(i) the [<sup>F67</sup>chair of the Competition and Markets Authority].]
  - [<sup>F68</sup>(ia) the Police Investigations and Review Commissioner.]
  - <sup>F69</sup>(j) .....
- (6) In this section “relevant area”—
- (a) in relation to a person within paragraph (a), (b) or (c) of subsection (5) [<sup>F70</sup>to whom an application is made by virtue of subsection (3)(za)(i)], means the area in England and Wales for which his police force is maintained;
  - [<sup>F71</sup>(aa) in relation to a person within any of those paragraphs to whom an application is made by virtue of subsection (3)(za)(ii), means the area in England and Wales—
    - (i) for which any collaborative force (within the meaning of subsection (3A)) is maintained; and
    - (ii) which is specified in relation to members of that force in the agreement mentioned in subsection (3)(za)(ii);]
    - [<sup>F72</sup>(ab) in relation to a person within any of those paragraphs to whom an application is made by virtue of subsection (3)(za)(iii), means the area in England and Wales for which—
      - (i) the person's police force is maintained, or
      - (ii) any other police force whose chief officer of police is a party to the agreement mentioned in subsection (3)(za)(iii) is maintained,
 and which is specified in relation to NCA officers in the agreement mentioned in that provision;]
    - (b) in relation to a person within paragraph (d) [<sup>F73</sup>or (ia) of subsection (5), means Scotland];
    - (c) in relation to a person within paragraph (e) of that subsection, means Northern Ireland;
    - [<sup>F74</sup>(ca) in relation to a person within paragraph (ea), means any place where, under section 2 of the <sup>M5</sup>Ministry of Defence Police Act 1987, the members of the Ministry of Defence Police have the powers and privileges of a constable;
    - (cb) in relation to a person within paragraph (ee), means the United Kingdom;]
    - [<sup>F75</sup>(cba) in relation to a person within subsection (5)(f) to whom an application is made by virtue of subsection (3)(b)(ii), means the area in England and Wales—
      - (i) for which any collaborative force (within the meaning of subsection (3AB)) is maintained, and
      - (ii) which is specified in relation to members of that force in the agreement mentioned in subsection (3)(b)(ii);]
      - <sup>F76</sup>(cc) .....
      - <sup>F77</sup>(d) .....

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- <sup>F78</sup>(e) .....
- <sup>F79</sup>(f) .....

and in each case includes the adjacent United Kingdom waters.

<sup>F80</sup>(6A) For the purposes of any authorisation by a person within paragraph (eb), (ec) or (ed) of subsection (5) property is in the relevant area or action in respect of wireless telegraphy is taken in the relevant area if, as the case may be—

- (a) the property is owned, occupied, in the possession of or being used by a person <sup>F81</sup>who is subject to service law or is a civilian subject to service discipline]; or
- (b) the action is taken in relation to the use of wireless telegraphy by such a person.

<sup>F82</sup>(6B) In subsection (6A) “subject to service law” and “civilian subject to service discipline” have the same meanings as in the Armed Forces Act 2006.]

[ For the purposes of this section, an offence is an immigration or nationality offence <sup>F83</sup>(6C) if conduct constituting the offence—

- (a) relates to the entitlement of one or more persons who are not nationals of the United Kingdom to enter, transit across, or be in, the United Kingdom (including conduct which relates to conditions or other controls on any such entitlement), or
- (b) is undertaken for the purposes of, or otherwise in relation to, any of these enactments—
  - (i) the British Nationality Act 1981;
  - (ii) the Hong Kong Act 1985;
  - (iii) the Hong Kong (War Wives and Widows) Act 1996;
  - (iv) the British Nationality (Hong Kong) Act 1997;
  - (v) the British Overseas Territories Act 2002;
  - (vi) an instrument made under any of those Acts.]

(7) The powers conferred by, or by virtue of, this section are additional to any other powers which a person has as a constable either at common law or under or by virtue of any other enactment and are not to be taken to affect any of those other powers.]

#### Textual Amendments

- F18** S. 93(1)(ab) substituted for word “or” (25.9.2000) by 2000 c. 23, s. 75(2) (with s. 82(3)); S.I. 2000/2543, art. 2
- F19** S. 93(1A)(1B) inserted (25.9.2000) by 2000 c. 23, s. 75(3) (with s. 82(3)); S.I. 2000/2543, art. 2
- F20** Words in s. 93(1B) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 8 para. 56(2); S.I. 2013/1682, art. 3(v)
- F21** Words in s. 93(1B) inserted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(5)(e)(6)(b), Sch. 19 para. 1(2)
- F22** Words in s. 93(1B) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 12 para. 1(a); S.I. 2008/219, art. 2(b)
- F23** Words in s. 93(1B) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 21 para. 2(2) (with Sch. 20 para. 29); S.I. 2013/1042, art. 4(i)
- F24** Words in s. 93(1B) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), Sch. 1 para. 116(2) (with art. 3)
- F25** Words in s. 93(2)(a) substituted (25.9.2000) by 2000 c. 23, s. 75(4)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F26** S. 93(2)(b) substituted (25.9.2000) by 2000 c. 23, s. 75(4)(b) (with s. 82(3)); S.I. 2000/2543, art. 2

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- F27** S. 93(2A)(2B) inserted (25.9.2000) by 2000 c. 23, s. 75(5) (with s. 82(3)); S.I. 2000/2543, art. 2
- F28** Words in s. 93(2A)(5)(e) substituted (4.11.2001) by 2000 c. 32, s. 78(1), Sch. 6 para. 20(2)(b); S.R. 2001/396, art. 2, Sch.
- F29** S. 93(2AA) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(b), 279; S.I. 2003/1397, art. 2(1), Sch.
- F30** Words in s. 93(2AA) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), Sch. 1 para. 116(3) (with art. 3)
- F31** S. 93(3)(za) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 6(2), 116(1); S.I. 2009/3096, art. 3(a)
- F32** Word in s. 93(3)(za)(i) omitted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(5)(e)(6)(b), Sch. 19 para. 1(3)(a)
- F33** Words in s. 93(3)(za)(ii) substituted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(5)(e)(6)(b), Sch. 19 para. 1(3)(b)
- F34** S. 93(3)(za)(iii) and word inserted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(5)(e)(6)(b), Sch. 19 para. 1(3)(c)
- F35** S. 93(3)(zb) inserted (E.W.N.I.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), Sch. 1 para. 6(2)(a)(i); and (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), sch. 7 para. 14(2)(a)(i); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F36** Words in s. 93(3)(a) substituted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 6(3), 116(1); S.I. 2009/3096, art. 3(a)
- F37** Word in s. 93(3)(a) substituted (E.W.N.I.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), Sch. 1 para. 6(2)(a)(ii); and (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), sch. 7 para. 14(2)(a)(ii); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F38** Words in s. 93(3)(a) substituted (25.9.2000) by 2000 c. 23, s. 82(1), Sch. 4 para. 8(2)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F39** S. 93(3)(aa) inserted (25.9.2000) by 2000 c. 23, s. 82, Sch. 4 para. 8(2)(b) (with s. 82(3)); S.I. 2000/2543, art. 2
- F40** Words in s. 93(3)(aa) substituted (4.6.2007) by Armed Forces Act 2006 (c. 52), s. 383(2), Sch. 16 para. 146(2); S.I. 2007/1442, art. 2(1)
- F41** S. 93(3)(b) substituted for s. 93(3)(b)(c) (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 97(3); S.I. 2006/378, art. 4(1), Sch. para. 10 (with art. 4(3))
- F42** Words in s. 93(3)(b) substituted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(5)(e)(6)(b), Sch. 19 para. 1(3)(d)(i)
- F43** Words in s. 93(3)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 8 para. 56(2); S.I. 2013/1682, art. 3(v)
- F44** S. 93(3)(b)(ii) and word inserted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(5)(e)(6)(b), Sch. 19 para. 1(3)(d)(ii)
- F45** Words in s. 93(3)(d) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 12 para. 1(b); S.I. 2008/219, art. 2(b)
- F46** S. 93(3)(e) and word inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(c), 279; S.I. 2003/1397, art. 2(1), Sch.
- F47** Word in s. 93(3)(d) omitted (25.6.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 21 para. 2(3)(a) (with Sch. 20 para. 29); S.I. 2013/1042, art. 4(i)
- F48** S. 93(3)(da) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 21 para. 2(3)(b) (with Sch. 20 para. 29); S.I. 2013/1042, art. 4(i)
- F49** Words in s. 93(3)(e) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), Sch. 1 para. 116(4) (with art. 3)
- F50** S. 93(3)(ea) inserted (E.W.N.I.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), Sch. 1 para. 6(2)



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- (a)(iii); and (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 14(2)(a)(iii)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F51** S. 93(3)(f) repealed (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F52** S. 93(3A) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), **ss. 6(4)**, 116(1); S.I. 2009/3096, art. 3(a)
- F53** S. 93(3AA)(3AB) inserted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(5)(e)(6)(b), **Sch. 19 para. 1(4)**
- F54** S. 93(3ZA) inserted (E.W.N.I.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 6(2)(b)**; and (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 14(2)(b)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F55** S. 93(3B)-(3E) repealed (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F56** Words in s. 93(4) substituted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 2(4)(a)** (with Sch. 20 para. 29); S.I. 2013/1042, art. 4(i)
- F57** Words in s. 93(4) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 2(4)(b)** (with Sch. 20 para. 29); S.I. 2013/1042, art. 4(i)
- F58** S. 93(5)(d) substituted (E.W.N.I.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 6(2)(c)(i)**; and (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 14(2)(c)(i)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F59** S. 93(5)(ea)-(ee) inserted (25.9.2000) by 2000 c. 23, s. 75(6)(a) (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F60** Words in s. 93(5)(eb) substituted (4.6.2007) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 146(3)**; S.I. 2007/1442, art. 2(1)
- F61** S. 93 amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 5 para. 4**; S.I. 2004/1572, art. 3(iii)
- F62** S. 93(5)(f) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 56(3)**; S.I. 2013/1682, art. 3(v)
- F63** S. 93(5)(h) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 12 para. 1(c)**; S.I. 2008/219, art. 2(b)
- F64** Word in s. 93(5)(h) omitted (25.6.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 2(5)** (with Sch. 20 para. 29); S.I. 2013/1042, art. 4(i)
- F65** S. 93(5)(ha) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), **ss. 55(1)**, 61(2) (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(d)
- F66** S. 93(5)(i) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 200(2)(d)**, 279; S.I. 2003/1397, art. 2(1), **Sch.**
- F67** Words in s. 93(5)(i) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 116(5)** (with art. 3)
- F68** S. 93(5)(ia) inserted (E.W.N.I.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 6(2)(c)(ii)**; and (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 14(2)(c)(ii)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F69** S. 93(5)(j) repealed (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F70** Words in s. 93(6)(a) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), **ss. 6(5)(a)**, 116(1); S.I. 2009/3096, art. 3(a)
- F71** S. 93(6)(aa) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), **ss. 6(5)(b)**, 116(1); S.I. 2009/3096, art. 3(a)
- F72** S. 93(6)(ab) inserted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(5)(e)(6)(b), **Sch. 19 para. 1(5)(a)**

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- F73** Words in s. 93(6)(b) substituted (E.W.N.I.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 1 para. 6\(2\)\(d\)](#); and (S.) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 14\(2\)\(d\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F74** S. 93(6)(ca)(cb) inserted (25.9.2000) by 2000 c. 23, s. 75(7) (with s. 82(3)); S.I. 2000/2543, art. 2
- F75** S. 93(6)(cba) inserted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(5)(e)(6)(b), [Sch. 19 para. 1\(5\)\(b\)](#)
- F76** S. 93(6)(cc) repealed (S.) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 8 Pt. 1](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F77** S. 93(6)(d) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 4 para. 97\(5\)](#), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), [Sch. paras. 10, 13\(dd\)](#) (with art. 4(3))
- F78** S. 93(6)(e) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 4 para. 97\(5\)](#), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), [Sch. paras. 10, 13\(dd\)](#) (with art. 4(3))
- F79** S. 93(6)(f) and the word “and” immediately preceding it repealed (25.9.2000) by 2000 c. 23, s. 82(2), [Sch. 5](#) (with s. 82(3)); S.I. 2000/2543, art. 2
- F80** S. 93(6A)(6B) inserted (25.9.2000) by 2000 c. 23, s. 75(8) (with s. 82(3)); S.I. 2000/2543, art. 2
- F81** Words in s. 93(6A)(a) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 146\(4\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F82** S. 93(6B) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 146\(5\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F83** S. 93(6C) inserted (25.6.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 21 para. 2\(6\)](#) (with [Sch. 20 para. 29](#)); S.I. 2013/1042, art. 4(i)

#### Modifications etc. (not altering text)

- C7** S. 93 amended (S.) (29.9.2000) by 2000 asp 11, s. 23(5) (with s. 30); S.S.I. 2000/341, art. 2

#### Marginal Citations

- M3** 1979 c. 2.  
**M4** 1996 c. 16.  
**M5** 1987 c. 4.

## 94 Authorisations given in absence of authorising officer.

- (1) Subsection (2) applies where it is not reasonably practicable for an authorising officer to consider an application for an authorisation under section 93 and—
- (a) if the authorising officer is within paragraph (b) [<sup>F84</sup>, (e) or (f)] of section 93(5), it is also not reasonably practicable for the application to be considered by any of the other persons within the paragraph concerned; <sup>F85</sup> . . . [<sup>F86</sup>or]
  - (b) if the authorising officer is within paragraph (a) [<sup>F87</sup>or (c)] of section 93(5), it is also not reasonably practicable for the application to be considered by his designated deputy <sup>F88</sup> . . .
  - <sup>F88</sup>(c) . . . . .
- (2) Where this subsection applies, the powers conferred on the authorising officer by section 93 may, in an urgent case, be exercised—
- (a) where the authorising officer is within paragraph (a) [<sup>F89</sup>or (d)] of subsection (5) of that section, by a person holding the rank of assistant chief constable in his force;

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- (b) where the authorising officer is within paragraph (b) of that subsection, by a person holding the rank of commander in the metropolitan police force;
- (c) where the authorising officer is within paragraph (c) of that subsection, by a person holding the rank of commander in the City of London police force;
- (d) where the authorising officer is within paragraph (e) of that subsection, by a person holding the rank of assistant chief constable in the <sup>F90</sup>Police Service of Northern Ireland];
- <sup>F91</sup>(da) where the authorising officer is within paragraph (ea) of that subsection, by a person holding the rank of deputy or assistant chief constable in the Ministry of Defence Police;
- (db) where the authorising officer is within paragraph (eb) of that subsection, by a person holding the position of assistant Provost Marshal in the <sup>F92</sup>Royal Navy Police];
- (dc) where the authorising officer is within paragraph (ec) or (ed) of that subsection, by a person holding the position of deputy Provost Marshal in the Royal Military Police or, as the case may be, in the Royal Air Force Police;
- (dd) where the authorising officer is within paragraph (ee) of that subsection, by a person holding the rank of deputy or assistant chief constable in the <sup>F93</sup>British Transport Police;]
- <sup>F94</sup>(e) where the authorising officer is within paragraph (f) of that subsection, by a person designated for the purposes of this section by the <sup>F95</sup>Director General of the National Crime Agency];
- (f) where the authorising officer is within paragraph (h) of that subsection, <sup>F96</sup>by an officer of Revenue and Customs who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000 and who is designated by the Commissioners for Her Majesty's Revenue and Customs] for the purposes of this section.
- <sup>F97</sup>(fa) where the authorising officer is within paragraph (ha) of that subsection, by a senior official (within the meaning of the Regulation of Investigatory Powers Act 2000) in the department of the Secretary of State by whom functions relating to immigration are exercisable who is designated by the Secretary of State for the purposes of this section;]
- <sup>F98</sup>(g) where the authorising officer is within paragraph (i) of that subsection, by an officer of the <sup>F99</sup>Competition and Markets Authority] designated by it for the purposes of this section.]
- <sup>F100</sup>(ga) where the authorising officer is within paragraph (ia) of that subsection, by a staff officer of the Police Investigations and Review Commissioner who is designated by the Commissioner for the purposes of this section.]
- <sup>F101</sup>(h) .....
- <sup>F102</sup>(3) .....
- (4) In subsection (1), “designated deputy”—
  - <sup>F103</sup>(a) in the case of an authorising officer within paragraph (a) of section 93(5), means—
    - (i) the person who is the appropriate deputy chief constable for the purposes of section 12A(1) of the Police Act 1996, or
    - (ii) the person holding the rank of assistant chief constable designated to act under section 12A(2) of that Act;]
  - <sup>F104</sup>(aa) .....

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- (b) in the case of an authorising officer within paragraph (c) of section 93(5), means the person authorised to act <sup>F105</sup> . . . under section 25 of the <sup>M6</sup>City of London Police Act 1839; <sup>F106</sup> . . .
- <sup>F107</sup>(c) . . . . .
- (d) . . . . .
- <sup>F108</sup>(5) . . . . .
- <sup>F108</sup>(6) . . . . .
- <sup>F108</sup>(7) . . . . .

### Textual Amendments

- F84** Words in s. 94(1)(a) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 98(2)(a)**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F85** Word at the end of s. 94(1)(a) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F86** Word in s. 94(1)(a) inserted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 98(2)(b)**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F87** Words in s. 94(1)(b) substituted (E.W.N.I.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 6(3)(a)**; and (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 14(3)(a)**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)
- F88** S. 94(1)(c) and word repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 98(2)(d), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd)
- F89** Words in s. 94(2)(a) repealed (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)
- F90** Words in s. 94(2)(d) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F91** S. 94(2)(da)-(dd) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(4)(a)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F92** Words in s. 94(2)(db) substituted (4.6.2007) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 147**; S.I. 2007/1442, art. 2(1)
- F93** S. 94 amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 5 para. 4**; S.I. 2004/1572, art. 3(jjj)
- F94** S. 94(2)(e) substituted for s. 94(2)(e)(ea) (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 98(3)**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F95** Words in s. 94(2)(e) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 57**; S.I. 2013/1682, art. 3(v)
- F96** Words in s. 94(2)(f) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 12 para. 2**; S.I. 2008/219, art. 2(b)
- F97** S. 94(2)(fa) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 3** (with Sch. 20 para. 29); S.I. 2013/1042, art. 4(i)
- F98** S. 94(2)(g) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 200(3)**, 279; S.I. 2003/1397, art. 2(1), Sch.
- F99** Words in s. 94(2)(g) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 117** (with art. 3)
- F100** S. 94(2)(ga) inserted (E.W.N.I.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 6(3)(b)**; and (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 14(3)(b)**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)

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- F101** S. 94(2)(h) repealed (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F102** S. 94(3) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 98(4), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd)
- F103** S. 94(4)(a) substituted (8.11.2006) by Police and Justice Act 2006 (c. 48), s. 53(2), **Sch. 14 para. 34**
- F104** S. 94(4)(aa) repealed (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F105** Words in s. 94(4) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F106** Word in s. 94(4) repealed (30.9.1998) by 1998 c. 37, s. 113(3), s. 120(2), **Sch. 10**; S.I. 1998/2327, **art. 2**
- F107** S. 94(4)(c) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 98(4), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd)
- F108** S. 94(5)-(7) repealed (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

#### Modifications etc. (not altering text)

- C8** S. 94 applied (*prosp.*) by 2000 c. 23, ss. 49, 83(2), **Sch. 2 para. 2(7)** (with s. 82(3))
- C9** S. 94 applied (1.10.2007) by Regulation of Investigatory Powers Act 2000 (c. 23), s. 83(2), **Sch. 2 para. 2(7)** (with s. 82(3)); S.I. 2007/2196, art. 2(a)

#### Marginal Citations

- M6** 1839 c. xciv.

## 95 Authorisations: form and duration etc.

- (1) An authorisation shall be in writing, except that in an urgent case an authorisation (other than one given by virtue of section 94) may be given orally.
- (2) An authorisation shall, unless renewed under subsection (3), cease to have effect—
  - (a) if given orally or by virtue of section 94, at the end of the period of 72 hours beginning with the time when it took effect;
  - (b) in any other case, at the end of the period of three months beginning with the day on which it took effect.
- (3) If at any time before an authorisation would cease to have effect the authorising officer who gave the authorisation, or in whose absence it was given, considers it necessary for the authorisation to continue to have effect for the purpose for which it was issued, he may, in writing, renew it for a period of three months beginning with the day on which it would cease to have effect.
- (4) A person shall cancel an authorisation given by him if satisfied that [<sup>F109</sup>the authorisation is one in relation to which the requirements of paragraphs (a) and (b) of section 93(2) are no longer satisfied.]
- (5) An authorising officer shall cancel an authorisation given in his absence if satisfied that [<sup>F109</sup>the authorisation is one in relation to which the requirements of paragraphs (a) and (b) of section 93(2) are no longer satisfied].
- (6) If the authorising officer who gave the authorisation is within paragraph (b) [<sup>F110</sup>[<sup>F111</sup>, (d), (e)] [<sup>F112</sup>or (f)]] of section 93(5), the power conferred on that person by subsections (3) and (4) above shall also be exercisable by each of the other persons within the paragraph concerned.

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*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (7) Nothing in this section shall prevent a designated deputy from exercising the powers conferred on an authorising officer within paragraph (a) [F113, (c) [F114 or (d) ]][F113 or (c)] of section 93(5) by subsections (3), (4) and (5) above.

#### Textual Amendments

- F109** Words in s. 95(4)(5) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(6)(a)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F110** Words in s. 95(6) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(6)(b)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F111** Words in s. 95(6) substituted (E.W.N.I) (1.4.2013) by virtue of **The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013** (S.I. 2013/602), **art. 1(2)**, **Sch. 1 para. 6(4)**; and (S.) (1.4.2013) by virtue of **Police and Fire Reform (Scotland) Act 2012** (asp 8), s. 129(2), **sch. 7 para. 14(4)(a)**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)
- F112** Words in s. 95(6) substituted (1.4.2006) by **Serious Organised Crime and Police Act 2005** (c. 15), s. 178(8), **Sch. 4 para. 99(2)**; S.I. 2006/378, **art. 4(1)**, **Sch. para. 10**
- F113** Words in s. 95(7) substituted (S.) (1.4.2013) by **Police and Fire Reform (Scotland) Act 2012** (asp 8), s. 129(2), **sch. 7 para. 14(4)(b)**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)
- F114** Words in s. 95(7) substituted (1.4.2006) by **Serious Organised Crime and Police Act 2005** (c. 15), s. 178(8), **Sch. 4 para. 99(3)**; S.I. 2006/378, **art. 4(1)**, **Sch. para. 10**

## 96 Notification of authorisations etc.

- (1) Where a person gives, renews or cancels an authorisation, he shall, as soon as is reasonably practicable and in accordance with arrangements made by the Chief Commissioner, give notice in writing that he has done so to a Commissioner appointed under section 91(1)(b).
- (2) Subject to subsection (3), a notice under this section shall specify such matters as the Secretary of State may by order prescribe.
- (3) A notice under this section of the giving or renewal of an authorisation shall specify—
  - (a) whether section 97 applies to the authorisation or renewal, and
  - (b) where that section does not apply by virtue of subsection (3) of that section, the grounds on which the case is believed to be one of urgency.
- (4) Where a notice is given to a Commissioner under this section, he shall, as soon as is reasonably practicable, scrutinise the notice.
- (5) An order under subsection (2) shall be made by statutory instrument.
- (6) A statutory instrument which contains an order under subsection (2) shall not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.

#### Commencement Information

- I4** S. 96 wholly in force at 22.2.1999; s. 96 not in force at Royal Assent see s. 135; s. 96 in force for certain purposes at 1.9.1997 by S.I. 1997/1930, **art. 2**(with art. 2(3)); s. 96 in force at 22.2.1999 insofar as not already in force by S.I. 1999/151, **art. 2**

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### *Authorisations requiring approval*

#### **97 Authorisations requiring approval.**

- (1) An authorisation to which this section applies shall not take effect until—
    - (a) it has been approved in accordance with this section by a Commissioner appointed under section 91(1)(b), and
    - (b) the person who gave the authorisation has been notified under subsection (4).
  - (2) Subject to subsection (3), this section applies to an authorisation if, at the time it is given, the person who gives it believes—
    - (a) that any of the property specified in the authorisation—
      - (i) is used wholly or mainly as a dwelling or as a bedroom in a hotel, or
      - (ii) constitutes office premises, or
    - (b) that the action authorised by it is likely to result in any person acquiring knowledge of—
      - (i) matters subject to legal privilege,
      - (ii) confidential personal information, or
      - (iii) confidential journalistic material.
  - (3) This section does not apply to an authorisation where the person who gives it believes that the case is one of urgency.
  - (4) Where a Commissioner receives a notice under section 96 which specifies that this section applies to the authorisation, he shall as soon as is reasonably practicable—
    - (a) decide whether to approve the authorisation or refuse approval, and
    - (b) give written notice of his decision to the person who gave the authorisation.
  - (5) A Commissioner shall approve an authorisation if, and only if, he is satisfied that there are reasonable grounds for believing the matters specified in section 93(2).
  - (6) Where a Commissioner refuses to approve an authorisation, he shall, as soon as is reasonably practicable, make a report of his findings to the authorising officer who gave it or in whose absence it was given<sup>F115</sup>. . . .
- [<sup>F116</sup>(6A) The reference in subsection (6) to the authorising officer who gave the authorisation or in whose absence it was given shall be construed, in the case of an authorisation given by or in the absence of a person within paragraph (b) [<sup>F117</sup>or (e)] of section 93(5), as a reference to the Commissioner of Police [<sup>F118</sup>or, as the case may be, Chief Constable] mentioned in the paragraph concerned.]
- [<sup>F119</sup>(6B) The reference in subsection (6) to the authorising officer who gave the authorisation or in whose absence it was given shall be construed—
- (a) in the case of an authorisation given by a person within paragraph (f) of section 93(5), as a reference to that person, and
  - (b) in the case of an authorisation given in the absence of such a person, as a reference to a [<sup>F120</sup>National Crime Agency officer] who is designated for the purposes of this section by the Director General of that Agency.]
- (7) This section shall apply in relation to a renewal of an authorisation as it applies in relation to an authorisation (the references in subsection (2)(a) and (b) to the authorisation being construed as references to the authorisation renewed).

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(8) In this section—

“office premises” has the meaning given in section 1(2) of the <sup>M7</sup>Offices, Shops and Railway Premises Act 1963;

“hotel” means premises used for the reception of guests who desire to sleep in the premises.

#### Textual Amendments

- F115** Words in s. 97(6) repealed (25.9.2000) by 2000 c. 23, s. 82(1)(2), Sch. 4 para. 8(7), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F116** S. 97(6A) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 82(3)**; S.I. 2000/2543, **art. 2**
- F117** Words in s. 97(6A) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 100(2)(a)**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F118** Words in s. 97(6A) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 100(2)(b)**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F119** S. 97(6B) inserted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 100(3)**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F120** Words in s. 97(6B)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 58**; S.I. 2013/1682, art. 3(v)

#### Marginal Citations

**M7** 1963 c. 41.

## 98 Matters subject to legal privilege.

- (1) Subject to subsection (5) below, in section 97 “matters subject to legal privilege” means matters to which subsection (2), (3) or (4) below applies.
- (2) This subsection applies to communications between a professional legal adviser and—
- (a) his client, or
  - (b) any person representing his client,
- which are made in connection with the giving of legal advice to the client.
- (3) This subsection applies to communications—
- (a) between a professional legal adviser and his client or any person representing his client, or
  - (b) between a professional legal adviser or his client or any such representative and any other person,
- which are made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- (4) This subsection applies to items enclosed with or referred to in communications of the kind mentioned in subsection (2) or (3) and made—
- (a) in connection with the giving of legal advice, or
  - (b) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- (5) For the purposes of section 97—
- (a) communications and items are not matters subject to legal privilege when they are in the possession of a person who is not entitled to possession of them, and



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- (b) communications and items held, or oral communications made, with the intention of furthering a criminal purpose are not matters subject to legal privilege.

**99 Confidential personal information.**

- (1) In section 97 “confidential personal information” means—
  - (a) personal information which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office, and which he holds in confidence, and
  - (b) communications as a result of which personal information—
    - (i) is acquired or created as mentioned in paragraph (a), and
    - (ii) is held in confidence.
- (2) For the purposes of this section “personal information” means information concerning an individual (whether living or dead) who can be identified from it and relating—
  - (a) to his physical or mental health, or
  - (b) to spiritual counselling or assistance given or to be given to him.
- (3) A person holds information in confidence for the purposes of this section if he holds it subject—
  - (a) to an express or implied undertaking to hold it in confidence, or
  - (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment (including an enactment contained in an Act passed after this Act).

**100 Confidential journalistic material.**

- (1) In section 97 “confidential journalistic material” means—
  - (a) material acquired or created for the purposes of journalism which—
    - (i) is in the possession of persons who acquired or created it for those purposes,
    - (ii) is held subject to an undertaking, restriction or obligation of the kind mentioned in section 99(3), and
    - (iii) has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism, and
  - (b) communications as a result of which information is acquired for the purposes of journalism and held as mentioned in paragraph (a)(ii).
- (2) For the purposes of subsection (1), a person who receives material, or acquires information, from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

*Code of Practice*

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### Textual Amendments

**F121** S. 101 repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

### *Complaints etc.*

**F122** **102** .....

### Textual Amendments

**F122** S. 102 repealed (25.9.2000) by 2000 c. 23, ss. 70(2)(c), 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2** (and by art. 6(1) of that S.I. the repeal is expressed to be brought into force on 2.10.2000 subject to the provisions of art. 6(2)-(5))

## **103 Quashing of authorisations etc.**

- (1) Where, at any time, a Commissioner appointed under section 91(1)(b) is satisfied that, at the time an authorisation was given or renewed, there were no reasonable grounds for believing the matters specified in section 93(2), he may quash the authorisation or, as the case may be, renewal.
- (2) Where, in the case of an authorisation or renewal to which section 97 does not apply, a Commissioner appointed under section 91(1)(b) is at any time satisfied that, at the time the authorisation was given or, as the case may be, renewed,—
  - (a) there were reasonable grounds for believing any of the matters specified in subsection (2) of section 97, and
  - (b) there were no reasonable grounds for believing the case to be one of urgency for the purposes of subsection (3) of that section,
 he may quash the authorisation or, as the case may be, renewal.
- (3) Where a Commissioner quashes an authorisation or renewal under subsection (1) or (2), he may order the destruction of any records relating to information obtained by virtue of the authorisation (or, in the case of a renewal, relating wholly or partly to information so obtained after the renewal) other than records required for pending criminal or civil proceedings.
- (4) If a Commissioner appointed under section 91(1)(b) is satisfied that, at any time after an authorisation was given or, in the case of an authorisation renewed under section 95, after it was renewed, there were no reasonable grounds for believing the matters specified in section 93(2), he may cancel the authorisation.
- (5) Where—
  - (a) an authorisation has ceased to have effect (otherwise than by virtue of subsection (1) or (2)), and
  - (b) a Commissioner appointed under section 91(1)(b) is satisfied that, at any time during the period of the authorisation, there were no reasonable grounds for believing the matters specified in section 93(2),

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he may order the destruction of any records relating, wholly or partly, to information which was obtained by virtue of the authorisation after that time (other than records required for pending criminal or civil proceedings).

- (6) Where a Commissioner exercises his powers under subsection (1), (2) or (4), he shall, if he is satisfied that there are reasonable grounds for doing so, order that the authorisation shall be effective, for such period as he shall specify, so far as it authorises the taking of action to retrieve anything left on property in accordance with the authorisation.
- (7) Where a Commissioner exercises a power conferred by this section, he shall, as soon as is reasonably practicable, make a report of his findings—
  - (a) to the authorising officer who gave the authorisation or in whose absence it was given, and
  - (b) to the Chief Commissioner;

[<sup>F123</sup>and subsection (6A) of section 97 shall apply for the purposes of this subsection as it applies for the purposes of subsection (6) of that section.]
- (8) Where—
  - (a) a decision is made under subsection (1) or (2) and an order for the destruction of records is made under subsection (3), or
  - (b) a decision to order the destruction of records is made under subsection (5),the order shall not become operative until the period for appealing against the decision has expired and, where an appeal is made, a decision dismissing it has been made by the Chief Commissioner.
- (9) A Commissioner may exercise any of the powers conferred by this section notwithstanding any approval given under section 97.

**Textual Amendments**

**F123** Words in s. 103(7) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(8)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

*Appeals*

**104 Appeals by authorising officers.**

- (1) An authorising officer who gives an authorisation, or in whose absence it is given, may, within the prescribed period, appeal to the Chief Commissioner against—
  - (a) any refusal to approve the authorisation or any renewal of it under section 97;
  - (b) any decision to quash the authorisation, or any renewal of it, under subsection (1) of section 103;
  - (c) any decision to quash the authorisation, or any renewal of it, under subsection (2) of that section;
  - (d) any decision to cancel the authorisation under subsection (4) of that section;
  - (e) any decision to order the destruction of records under subsection (5) of that section;
  - (f) any refusal to make an order under subsection (6) of that section;
  - <sup>F124</sup>(g) .....

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- (2) In subsection (1), “the prescribed period” means the period of seven days beginning with the day on which the refusal, decision or, as the case may be, determination appealed against is reported to the authorising officer.
- (3) In determining an appeal within subsection (1)(a), the Chief Commissioner shall, if he is satisfied that there are reasonable grounds for believing the matters specified in section 93(2), allow the appeal and direct the Commissioner to approve the authorisation or renewal under that section.
- (4) In determining—
- (a) an appeal within subsection (1)(b), <sup>F125</sup> . . .
  - (b) . . . . .
- the Chief Commissioner shall allow the appeal unless he is satisfied that, at the time the authorisation was given or, as the case may be, renewed there were no reasonable grounds for believing the matters specified in section 93(2).
- (5) In determining—
- (a) an appeal within subsection (1)(c), <sup>F125</sup> . . .
  - (b) . . . . .
- the Chief Commissioner shall allow the appeal unless he is satisfied as mentioned in section 103(2).
- (6) In determining—
- (a) an appeal within subsection (1)(d) or (e), <sup>F125</sup> . . .
  - (b) . . . . .
- the Chief Commissioner shall allow the appeal unless he is satisfied that at the time to which the decision relates there were no reasonable grounds for believing the matters specified in section 93(2).
- (7) In determining an appeal within subsection (1)(f), the Chief Commissioner shall allow the appeal and order that the authorisation shall be effective to the extent mentioned in section 103(6), for such period as he shall specify, if he is satisfied that there are reasonable grounds for making such an order.
- (8) Where an appeal is allowed under this section, the Chief Commissioner shall—
- (a) in the case of an appeal within subsection (1)(b) or (c), also quash any order made by the Commissioner to destroy records relating to information obtained by virtue of the authorisation concerned, <sup>F126</sup> . . .
  - (b) . . . . .

#### Textual Amendments

**F124** S. 104(1)(g) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

**F125** S. 104(4)(b)(5)(b)(6)(b) and the word “or” immediately preceding them repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

**F126** S. 104(8)(b) and the word “and” immediately preceding it repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

## 105 Appeals by authorising officers: supplementary.

- (1) Where the Chief Commissioner determines an appeal under section 104—

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- (a) he shall give notice of his determination—
    - (i) to the authorising officer concerned, [<sup>F127</sup>and]
    - (ii) to the Commissioner against whose refusal, decision or determination the appeal was made, <sup>F128</sup> . . .
    - (iii) . . . . .
  - (b) if he dismisses the appeal, he shall make a report of his findings—
    - (i) to the authorising officer concerned,
    - (ii) to the Commissioner against whose refusal, decision or determination the appeal was made, and
    - (iii) under section 107(2), to the Prime Minister [and the Scottish Ministers].
- (2) Subject to subsection (1)(b), the Chief Commissioner shall not give any reasons for a determination under section 104.
- (3) Nothing in section 104 shall prevent a designated deputy from exercising the powers conferred by subsection (1) of that section on an authorising officer within paragraph (a) [<sup>F129</sup>or (c)] of section 93(5).

**Textual Amendments**

**F127** Word in s. 105(1)(a)(i) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(9)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

**F128** S. 105(1)(a)(iii) and the word “and” immediately preceding it repealed (25.9.2000) by 2000 c. 23, s. 82(1)(2), **Sch. 4 para. 8(9)**, **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

**F129** Words in s. 105(3) substituted (E.W.N.I.) (1.4.2013) by **The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013** (S.I. 2013/602), art. 1(2), **Sch. 1 para. 6(5)**; and (S.) (1.4.2013) by **Police and Fire Reform (Scotland) Act 2012** (asp 8), s. 129(2), **sch. 7 para. 14(5)**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)

**Modifications etc. (not altering text)**

**C10** Words in s. 105(1)(b)(iii) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(3)**; S.I. 1998/3178, **art. 3**

<sup>F130</sup>**106** . . . . .

**Textual Amendments**

**F130** S. 106 repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

*General*

**107 Supplementary provisions relating to Commissioners.**

- (1) The Chief Commissioner shall keep under review the performance of functions under this Part.
- (2) The Chief Commissioner shall make an annual report on [<sup>F131</sup>the matters with which he is concerned] to the Prime Minister [<sup>F132</sup>and to the Scottish Ministers] and may at

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any time report to him [<sup>F132</sup>or them (as the case may require)] on [<sup>F131</sup>anything relating to any of those matters].

- (3) The Prime Minister shall lay before each House of Parliament a copy of each annual report made by the Chief Commissioner under subsection (2) together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (4) below.
- [<sup>F133</sup>(3A) The Scottish Ministers shall lay before the Scottish Parliament a copy of each annual report made by the Chief Commissioner under subsection (2), together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (4) below.]
- (4) The Prime Minister may exclude a matter from the copy of a report as laid before each House of Parliament, if it appears to him, after consultation with the Chief Commissioner [<sup>F134</sup>and the Scottish Ministers], that the publication of that matter in the report would be prejudicial to [<sup>F135</sup>any of the purposes for which authorisations may be given or granted under this Part of this Act or Part II of the Regulation of Investigatory Powers Act 2000 or under any enactment contained in or made under an Act of the Scottish Parliament which makes provision equivalent to that made by Part II of that Act of 2000 or] to the discharge of—
- (a) the functions of any [<sup>F136</sup>local policing body or][<sup>F137</sup>the Scottish Police Authority],
  - (b) the functions of the [<sup>F138</sup>National Crime Agency], or
  - [<sup>F139</sup>(bza) the functions of the Police Investigations and Review Commissioner under section 33A(b)(i) of the Police, Public Order and Criminal Justice (Scotland) Act 2006,]
  - <sup>F140</sup>(ba) .....
  - (c) the duties of [<sup>F141</sup>the Commissioners for Her Majesty's Revenue and Customs.]
  - [<sup>F142</sup>(d) the functions of the Secretary of State relating to immigration.]
- (5) Any person having functions under this Part, and any person taking action in relation to which an authorisation was given, shall comply with any request of a Commissioner for documents or information required by him for the purpose of enabling him to discharge his functions.
- [<sup>F143</sup>(5A) It shall be the duty of—
- (a) every person by whom, or on whose application, there has been given or granted any authorisation the function of giving or granting which is subject to review by the Chief Commissioner,
  - (b) every person who has engaged in conduct with the authority of such an authorisation,
  - (c) every person who holds or has held any office, rank or position with the same public authority as a person falling within paragraph (a),
  - (d) every person who holds or has held any office, rank or position with any public authority for whose benefit (within the meaning of Part II of the Regulation of Investigatory Powers Act 2000) activities which are or may be subject to any such review have been or may be carried out, and
  - (e) every person to whom a notice under section 49 of the Regulation of Investigatory Powers Act 2000 (notices imposing a disclosure requirement in respect of information protected by a key) has been given in relation to any information obtained by conduct to which such an authorisation relates,

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to disclose or provide to the Chief Commissioner all such documents and information as he may require for the purpose of enabling him to carry out his functions.

(5B) It shall be the duty of every Commissioner to give the tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000 all such assistance (including his opinion as to any issue falling to be determined by that tribunal) as that tribunal may require—

- (a) in connection with the investigation of any matter by that tribunal; or
- (b) otherwise for the purposes of that tribunal’s consideration or determination of any matter.

(5C) In this section “public authority” means any public authority within the meaning of section 6 of the <sup>M8</sup>Human Rights Act 1998 (acts of public authorities) other than a court or tribunal.]

F144(6) . . . . .

#### Textual Amendments

- F131 Words in s. 107(2) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(10)(a)(i)(ii)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F132 Words in s. 107(2) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(5)(a)(i)(ii)**; S.I. 1998/3178, **art. 3**
- F133 S. 107(3A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(5)(b)**; S.I. 1998/3178, **art. 3**
- F134 Words in s. 107(4) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(5)(c)**; S.I. 1998/3178, **art. 3**
- F135 Words in s. 107(4) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(10)(b)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F136 Words in s. 107(4)(a) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 222**; S.I. 2011/3019, art. 3, Sch. 1
- F137 Words in s. 107(4)(a) substituted (E.W.N.I.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 6(6)(a)**; and (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 14(6)(a)**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)
- F138 Words in s. 107(4)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 59**; S.I. 2013/1682, art. 3(v)
- F139 S. 107(4)(bza) inserted (E.W.N.I.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 6(6)(b)**; and (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 14(6)(b)**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)
- F140 S. 107(4)(ba) repealed (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)
- F141 Words in s. 107(4)(c) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 12 para. 3**; S.I. 2008/219, **art. 2(b)**
- F142 S. 107(4)(d) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 4** (with Sch. 20 para. 29); S.I. 2013/1042, art. 4(i)
- F143 S. 107(5A)-(5C) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(10)(c)(11)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F144 S. 107(6) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

#### Modifications etc. (not altering text)

- C11 S. 107(3)(4) applied (25.9.2000) by 2000 c. 23, s. 39(3) (with s. 82(3)); S.I. 2000/2543, **art. 2**

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### Marginal Citations

M8 1998 c. 42.

## 108 Interpretation of Part III.

(1) In this Part—

[<sup>F145</sup>“Assistant Commissioner of Police of the Metropolis” includes the Deputy Commissioner of Police of the Metropolis;]

“authorisation” means an authorisation under section 93;

“authorising officer” has the meaning given by section 93(5);

“criminal proceedings” includes [<sup>F146</sup>proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006;]

[<sup>F147</sup> ...

“designated deputy” has the meaning given in section 94(4);

“United Kingdom waters” has the meaning given in section 30(5) of the <sup>M9</sup>Police Act 1996; and

“wireless telegraphy” has the same meaning as in [<sup>F148</sup>the Wireless Telegraphy Act 2006] and, in relation to wireless telegraphy, “interfere” has the same meaning as in that Act.

[<sup>F149</sup>(1A) A reference in this Part to a staff officer of the Police Investigations and Review Commissioner is to any person who—

(a) is a member of the Commissioner's staff appointed under paragraph 7A of schedule 4 to the Police, Public Order and Criminal Justice (Scotland) Act 2006, or

(b) is a member of the Commissioner's staff appointed under paragraph 7 of that schedule to whom paragraph 7B(2) of that schedule applies.]

(2) Where, under this Part, notice of any matter is required to be given in writing, the notice may be transmitted by electronic means.

(3) For the purposes of this Part, an authorisation (or renewal) given—

(a) by the designated deputy of an authorising officer, or

(b) by a person on whom an authorising officer's powers are conferred by section 94,

shall be treated as an authorisation (or renewal) given in the absence of the authorising officer concerned; and references to the authorising officer in whose absence an authorisation (or renewal) was given shall be construed accordingly.

### Textual Amendments

**F145** In s. 108(1) definition of "Assistant Commissioner of Police of the Metropolis" inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(12)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

**F146** Words in s. 108(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, s. 383(2), **Sch. 16 para. 148**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

**F147** Words in s. 108(1) repealed (15.2.2008) by **Serious Crime Act 2007 (c. 27)**, s. 94(1), **Sch. 12 para. 4**, **Sch. 14**; S.I. 2008/219, art. 2(b)(d)(i)



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**F148** Words in s. 108(1) substituted (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), s. 126(2), **Sch. 7 para. 19**

**F149** S. 108(1A) inserted (S.) (1.7.2016) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), **ss. 112, 117(2)**; S.S.I. 2016/199, art. 2

**Modifications etc. (not altering text)**

**C12** S. 108(1) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), **Sch. 1 para. 41**

**Marginal Citations**

**M9** 1996 c. 16.

**PART IV**

**POLICE INFORMATION TECHNOLOGY ORGANISATION**

**<sup>F150</sup>109 Police Information Technology Organisation.**

.....

**Textual Amendments**

**F150** Ss. 109-111 repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), **Sch. 15 Pt. 1(A)**; S.I. 2007/709, art. 3(q) (with art. 6)

**<sup>F150</sup>110 Relationship between the Organisation and the Secretary of State.**

.....

**Textual Amendments**

**F150** Ss. 109-111 repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), **Sch. 15 Pt. 1(A)**; S.I. 2007/709, art. 3(q) (with art. 6)

**<sup>F150</sup>111 Interpretation of Part IV.**

.....

**Textual Amendments**

**F150** Ss. 109-111 repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), **Sch. 15 Pt. 1(A)**; S.I. 2007/709, art. 3(q) (with art. 6)

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## PART V

### CERTIFICATES OF CRIMINAL RECORDS, &C.

#### Modifications etc. (not altering text)

- C13** Pt. 5 power to apply (with modifications) conferred (E.W.) (7.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 163\(4\), 178\(2\)](#)
- C14** Pt. 5 explained (7.7.2008 for specified purposes, 3.3.2011 for specified purposes, 10.3.2015 in so far as not already in force) by [Data Protection Act 1998 \(c. 29\), s. 56\(4\)](#) (as amended (19.5.2008) by 2006 c. 47, ss. 63, 65, [Sch. 9 para. 15\(3\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2008/1320, [art. 3](#); S.I. 2008/1592, [art. 2](#); S.I. 2011/601, [art. 2](#); S.I. 2015/312, [art. 2](#))
- C15** Pt. 5 modified (temp.) (S.) (20.1.2009) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006\) Order 2009 \(S.S.I. 2009/4\), arts. 1\(2\), 5](#) (with art. 3)
- C16** Pt. 5 modified (temp.) (S.) (20.1.2009) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006\) Order 2009 \(S.S.I. 2009/4\), arts. 1\(2\), 4](#) (with art. 3)
- C17** Pt. 5 extended in part (Guernsey) (with modifications) (10.12.2009) by [The Police Act 1997 \(Criminal Records\) \(Guernsey\) Order 2009 \(S.I. 2009/3215\), arts. 1\(2\), 3, Sch. 1, Sch. 3](#) (with arts. 1(3), 6-8)
- C18** Pt. V extended in part (Jersey) (with modifications) (18.3.2010) by [The Police Act 1997 \(Criminal Records\) \(Jersey\) Order 2010 \(S.I. 2010/765\), arts. 1\(2\), 3, Schs. 1, 3](#) (with arts. 1(3), 6-8)
- C19** Pt. V extended in part (Isle of Man) (with modifications) (18.3.2010) by [The Police Act 1997 \(Criminal Records\) \(Isle of Man\) Order 2010 \(S.I. 2010/764\), arts. 1\(2\), 3, Schs. 1, 3](#) (with arts. 1(3), 6-8)

## 112 Criminal conviction certificates.

- (1) <sup>F151</sup>The Secretary of State<sup>F151</sup>[<sup>F151</sup>DBS] shall issue a criminal conviction certificate to any individual who—
  - (a) makes an application <sup>F152</sup>....,
  - <sup>F153</sup>(aa) is aged 16 or over at the time of making the application,] and
  - (b) <sup>F154</sup>pays in the prescribed manner any prescribed fee]
- (2) A criminal conviction certificate is a certificate which—
  - (a) gives the prescribed details of every conviction [<sup>F155</sup>or conditional caution] of the applicant which is recorded in central records, or
  - (b) states that there [<sup>F156</sup>is no such conviction][<sup>F156</sup>are no such convictions and conditional cautions].
- (3) In this section—

“central records” means such records of convictions [<sup>F157</sup>and conditional cautions] held for the use of police forces generally as may be prescribed;

<sup>F158</sup>“conditional caution” means a caution given under section 22 of the Criminal Justice Act 2003 (c. 44) or section 66A of the Crime and Disorder Act 1998, other than one that is spent for the purposes of Schedule 2 to the Rehabilitation of Offenders Act 1974.]

“conviction” means a conviction within the meaning of the <sup>M10</sup>Rehabilitation of Offenders Act 1974, other than a spent conviction.

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- (4) Where an applicant has received a criminal conviction certificate, [F159the Secretary of State][F159DBS] may refuse to issue another certificate to that applicant during such period as may be prescribed.

#### Textual Amendments

- F151** Words in s. 112(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(a)** (with Pt. 4)
- F152** Words in s. 112(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), **ss. 79(1), 101(2)** (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. 97(2), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F153** S. 112(1)(aa) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 80(1), 120** (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F154** S. 112(1)(b) substituted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\)](#), arts. 1(1), **2(1)(b)**
- F155** Words in s. 112(2)(a) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 84(a), 120** (with s. 97); S.I. 2012/2234, art. 2(v)
- F156** Words in s. 112(2)(b) substituted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 84(b), 120** (with s. 97); S.I. 2012/2234, art. 2(v)
- F157** Words in s. 112 inserted (E.W.) (19.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 50(2)(a), 153(7)**; S.I. 2008/3260, art. 2(1)(b)
- F158** Words in s. 112 inserted (E.W.) (19.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 50(2)(b), 153(7)**; S.I. 2008/3260, art. 2(1)(b)
- F159** Words in s. 112(4) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(a)** (with Pt. 4)

#### Commencement Information

- I5** S. 112 not in force at Royal Assent, see s. 135(1)
- I6** S. 112 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(a)**
- I7** S. 112 in force at 10.3.2014 for E.W. by S.I. 2014/237, **art. 2**

#### Marginal Citations

- M10** 1974 c. 53.

#### F160 113 Criminal record certificates.

#### Textual Amendments

- F160** S. 113 repealed (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 163(1), 178(4)(d)(8), **Sch. 17 Pt. 2**; S.S.I. 2006/166, art. 2(1)(c)(d); S.I. 2006/378, art. 7(a)(f)

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**[<sup>F161</sup>113A Criminal record certificates E+W**

- (1) [<sup>F162</sup>DBS] must issue a criminal record certificate to any individual who—
  - (a) makes an application <sup>F163</sup> ...,
    - [<sup>F164</sup>(aa) is aged 16 or over at the time of making the application.] and
  - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
  - (a) be countersigned by a registered person, and
  - (b) be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.

[ But an application for a criminal record certificate need not be countersigned by a <sup>F165</sup>(2A) registered person if—

- (a) the application is transmitted to [<sup>F166</sup>DBS] electronically by a registered person who satisfies conditions determined by [<sup>F166</sup>DBS], and
- (b) it is transmitted in accordance with requirements determined by [<sup>F166</sup>DBS].]

- (3) A criminal record certificate is a certificate which—
  - (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records, or
  - (b) states that there is no such matter.

<sup>F167</sup>(4) .....

- (5) [<sup>F168</sup>DBS] may treat an application under this section as an application under section 113B if—
  - (a) in [<sup>F169</sup>its] opinion the certificate is required for a purpose prescribed under subsection (2) of that section,
  - (b) the registered person provides [<sup>F170</sup>it] with the statement required by that subsection, and
  - (c) the applicant consents and pays to [<sup>F168</sup>DBS] the amount (if any) by which the fee payable in relation to an application under that section exceeds the fee paid in relation to the application under this section.

- (6) In this section—
  - “central records” means such records of convictions and cautions held for the use of police forces generally as may be prescribed;
  - “exempted question” means a question [<sup>F171</sup>which—
    - (a) so far as it applies to convictions, is a question] in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act; [<sup>F172</sup>and—
    - (b) so far as it applies to cautions, is a question to which paragraph 3(3) or (4) of Schedule 2 to that Act has been excluded by an order of the Secretary of State under paragraph 4 of that Schedule;]
  - [<sup>F173</sup>“relevant matter”, in this section as it has effect in England and Wales, means—
    - (a) in relation to a person who has one conviction only—
      - (i) a conviction of an offence within subsection (6D);

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- (ii) a conviction in respect of which a custodial sentence or a sentence of service detention was imposed; or
- (iii) a current conviction;
- (b) in relation to any other person, any conviction;
- (c) a caution given in respect of an offence within subsection (6D);
- (d) a current caution.]

[ The offences referred to in paragraphs (a)(i) and (c) of the definition of “relevant <sup>F174</sup>(6D) matter” in subsection (6), as it has effect in England and Wales, are as follows—

- (a) murder;
- (b) an offence under section 67(1A) of the Medicines Act 1968 (prescribing, etc. a medicinal product in contravention of certain conditions);
- (c) an offence under any of sections 126 to 129 of the Mental Health Act 1983;
- (d) an offence specified in the Schedule to the Disqualification from Caring for Children (England) Regulations 2002;
- (e) an offence specified in Schedule 15 to the Criminal Justice Act 2003 (specified offences for the purposes of Chapter 5 of Part 12 of that Act (dangerous offenders));
- (f) an offence under the following provisions of the Mental Capacity Act 2005—
  - (i) section 44 (ill-treatment or neglect);
  - (ii) paragraph 4 of Schedule 1 (applications and procedure for registration);
  - (iii) paragraph 4 of Schedule 4 (duties of attorney in event of incapacity of donor);
- (g) an offence under section 7, 9 or 19 of the Safeguarding Vulnerable Groups Act 2006 (offences in respect of regulated activity);
- (h) an offence specified in section 17(3)(a), (b) or (c) of the Health and Social Care Act 2008 (cancellation of registration), apart from an offence under section 76 of that Act (disclosure of confidential personal information);
- (i) an offence specified in the Schedule to the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009;
- (j) an offence specified in Schedule 2 or 3 to the Childcare (Disqualification) Regulations 2009;
- (k) an offence which has been superseded (directly or indirectly) by an offence within paragraphs (a) to (j);
- (l) an offence of—
  - (i) attempting or conspiring to commit any offence falling within paragraphs (a) to (k), or
  - (ii) inciting or aiding, abetting, counselling or procuring the commission of any such offence,or an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) committed in relation to any such offence;
- (m) an offence under the law of Scotland or Northern Ireland or any territory outside the United Kingdom which corresponds to an offence under the law of England and Wales within any of paragraphs (a) to (l);
- (n) any offence under section 42 of the Armed Forces Act 2006 in relation to which the corresponding offence under the law of England and Wales (within the meaning of that section) is an offence within any of paragraphs (a) to (l);

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- (o) an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 of which the corresponding civil offence (within the meaning of that Act) is an offence within any of paragraphs (a) to (l).

(6E) For the purposes of the definition of “relevant matter” as it has effect in England and Wales—

- (a) “conviction” has the same meaning as in the Rehabilitation of Offenders Act 1974, and includes a spent conviction within the meaning of that Act;
- (b) “caution” includes a caution which is spent for the purposes of Schedule 2 to that Act but excludes a disregarded caution within the meaning of Chapter 4 of Part 5 of the Protection of Freedoms Act 2012;
- (c) a person’s conviction is a current conviction if—
  - (i) the person was aged 18 or over on the date of the conviction and that date fell within the 11 year period ending with the day on which the certificate is issued, or
  - (ii) the person was aged under 18 on the date of conviction and that date fell within the period of 5 years and 6 months ending with the day on which the certificate is issued;
- (d) a caution given to a person is a current caution if—
  - (i) the person was aged 18 or over on the date it was given and that date fell within the 6 year period ending with the day on which the certificate is issued, or
  - (ii) the person was aged under 18 on the date it was given and that date fell within the 2 year period ending with the day on which the certificate is issued;
- (e) “custodial sentence” and “sentence of service detention” have the same meaning as in section 5(8) of the Rehabilitation of Offenders Act 1974.

(6F) Section 139(1) and (4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (which amends section 5(8) of the Rehabilitation of Offenders Act 1974) is to be treated for the purposes of subsection (6E)(e) as being in force when subsection (6E)(e) comes into force.]

[ The Secretary of State may by order amend the definitions of “central records” and <sup>F175</sup>(7) “relevant matter” in subsection (6).

(8) The power to make an order under subsection (7) is exercisable by statutory instrument, but no such order may be made unless a draft of the instrument containing the order is laid before and approved by resolution of each House of Parliament.]

[ For the purposes of this Part a person acts as the registered person in relation to an <sup>F176</sup>(9) application for a criminal record certificate if the person—

- (a) countersigns the application, or
- (b) transmits the application to [<sup>F177</sup>DBS] under subsection (2A).]

<sup>F178</sup>(10) . . . . .

**Textual Amendments**

**F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified

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- purposes) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F162** Words in s. 113A(1) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **37(b)** (with Pt. 4)
- F163** Words in s. 113A(1)(a) repealed (S.) (11.1.2008) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), **ss. 79(1)**, 101(2) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 97(2), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F164** S. 113A(1)(aa) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), **ss. 80(1)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F165** S. 113A(2A) inserted (E.W.) (2.3.2009) by The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I. 2009/203), arts. 1(1), **3(2)**
- F166** Words in s. 113A(2A) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **37(b)** (with Pt. 4)
- F167** S. 113A(4) repealed (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), ss. 79(2)(a), 120, **Sch. 10 Pt. 6** (with s. 97); S.I. 2013/1180, art. 2(a)
- F168** Words in s. 113A(5) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **37(b)** (with Pt. 4)
- F169** Word in s. 113A(5)(a) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), **arts. 1(1)**, 38(a) (with Pt. 4)
- F170** Word in s. 113A(5)(b) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **38(b)** (with Pt. 4)
- F171** Words in s. 113A(6) inserted (E.W.) (19.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 50(3)(a)**, 153(7); S.I. 2008/3260, art. 2(1)(b)
- F172** Words in s. 113A(6) inserted (E.W.) (19.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 50(3)(b)**, 153(7); S.I. 2008/3260, art. 2(1)(b)
- F173** Words in s. 113A(6) substituted (E.W.) (29.5.2013) by The Police Act 1997 (Criminal Record Certificates Relevant Matters) (Amendment) (England and Wales) Order 2013 (S.I. 2013/1200), arts. 1(1), **3**
- F174** S. 113A(6D)-(6F) inserted (E.W.) (29.5.2013) by The Police Act 1997 (Criminal Record Certificates Relevant Matters) (Amendment) (England and Wales) Order 2013 (S.I. 2013/1200), arts. 1(1), **4**
- F175** S. 113A(7)(8) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 9 para. 14(2)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch
- F176** S. 113A(9) inserted (E.W.) (2.3.2009) by The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I. 2009/203), arts. 1(1), **3(4)**
- F177** Words in s. 113A(9) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **37(b)** (with Pt. 4)
- F178** S. 113A(10) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 36, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa) (bb)(i)

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#### **Modifications etc. (not altering text)**

- C20** S. 113A(1) excluded (E.W.) (31.3.2010) by [The Safeguarding Vulnerable Groups Act 2006 \(Controlled Activity and Miscellaneous Provisions\) Regulations 2010 \(S.I. 2010/1146\)](#), regs. 1, **4(1)**
- C21** S. 113A(1)(a) modified (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **21(1)**

#### **[<sup>F161</sup>113A Criminal record certificates **N.I.****

- (1) The Secretary of State must issue a criminal record certificate to any individual who—
- (a) makes an application <sup>F163</sup> ...,
    - <sup>F603</sup>(aa) [ except in prescribed circumstances, is aged 16 or over at the time of making the application,] and
    - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
- (a) be countersigned by a registered person, and
  - (b) be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.
- [ But an application for a criminal record certificate need not be countersigned by a <sup>F604</sup>(2A) registered person if—
- (a) the application is transmitted to the Department electronically by a registered person who satisfies conditions determined by the Department, and
  - (b) it is transmitted in accordance with requirements determined by the Department.]
- (3) A criminal record certificate is a certificate which—
- (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records, or
  - (b) states that there is no such matter.
- <sup>F605</sup>(4) .....
- (5) The Secretary of State may treat an application under this section as an application under section 113B if—
- (a) in his opinion the certificate is required for a purpose prescribed under subsection (2) of that section,
  - (b) the registered person provides him with the statement required by that subsection, and
  - (c) the applicant consents and pays to the Secretary of State the amount (if any) by which the fee payable in relation to an application under that section exceeds the fee paid in relation to the application under this section.
- (6) In this section—
- “central records” means such records of convictions and cautions held for the use of police forces generally as may be prescribed;
- “exempted question” means a question in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act;



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[<sup>F606</sup>“relevant matter”, in this section as it has effect in Northern Ireland, means–

- (a) in relation to a person who has one conviction only–
  - (i) a conviction of an offence within subsection (6D);
  - (ii) a conviction in respect of which a sentence of imprisonment, a sentence of service detention or custodial order was imposed; or
  - (iii) a current conviction;
- (b) in relation to any other person, any conviction;
- (c) a caution, restorative caution, diversionary youth conference or informed warning given in respect of an offence within subsection (6D);
- (d) a current caution, restorative caution, diversionary youth conference or informed warning.]

[ The offences referred to in paragraphs (a)(i) and (c) of the definition of “relevant <sup>F607</sup>(6D) matter” in subsection (6), as it has effect in Northern Ireland, are as follows–

- (a) The following offences–
  - (i) Abducting girl under 18 with intention of marriage;
  - (ii) Abducting girl under 18;
  - (iii) Affray;
  - (iv) Breach of the peace;
  - (v) False imprisonment;
  - (vi) Going armed so as to terrify the public;
  - (vii) Indecency – outraging public decency;
  - (viii) Kidnapping;
  - (ix) Manslaughter;
  - (x) Murder;
  - (xi) Publishing obscene libel;
  - (xii) Publishing/exhibiting/selling indecent/obscene things;
  - (xiii) Rape;
  - (xiv) Riot;
  - (xv) Rout (incipient riot); and
  - (xvi) Unlawful assembly.
- (b) an offence under section 1 of the Unlawful Drilling Act 1819;
- (c) an offence under section 10 or 11 of the Slave Trade Act 1824;
- (d) an offence under section 2 or 3 of the Tumultuous Risings (Ireland) Act 1831;
- (e) an offence under section 35 of the Malicious Damage Act 1861;
- (f) an offence under section 32, 33, 34, 58, 59 or 64 of the Offences Against the Person Act 1861;
- (g) an offence under section 26 of the Criminal Justice Act (Northern Ireland) 1945;
- (h) an offence under section 2 of the Nuclear Installations Act 1965;
- (i) an offence under section 13, 13A or 13B of the Criminal Justice Act (Northern Ireland) 1966;
- (j) an offence under section 5(1) of the Criminal Law Act (NI) 1967;
- (k) an offence under section 25 or 30 of the Children and Young Persons Act (Northern Ireland) 1968;

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- (l) an offence under section 7(2)(a), 52, 58(2)(a), 58(2)(b), 63(b), 67 or 67 (1A) of the Medicines Act 1968;
- (m) an offence under section 1, 2 or 3 of the Protection of Persons and Property Act (Northern Ireland) 1969;
- (n) an offence under section 7 of the Public Order Amendment Act (Northern Ireland) 1970;
- (o) an offence under section 4(2), 5(2), 5(3), 6(2), 8, 9, 11, 12, 13, 18, 19, 20 or 23 of the Misuse of Drugs Act 1971;
- (p) an offence under section 1 of the Biological Weapons Act 1974;
- (q) an offence under section 2 of the Criminal Jurisdiction Act 1975;
- (r) an offence under Article 5 of the Poisons (Northern Ireland) Order 1976;
- (s) an offence under Article 4 or 5 of the Criminal Damage (Northern Ireland) Order 1977;
- (t) an offence under Article 19 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977;
- (u) an offence under Article 3 of the Criminal Law (Amendment) (Northern Ireland) Order 1977;
- (v) an offence under section 50 of the Customs and Excise Management Act 1979;
- (w) an offence under section 6(2) or section 7(2) of the Aviation Security Act 1982;
- (x) an offence under Article 5, 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983;
- (y) an offence under sections 1A to 1D or 2 of the Nuclear Material (Offences) Act 1983;
- (z) an offence under section 38 of the Public Order Act 1986;
- (aa) an offence under Article 11, 28, 29, 31, 58, 58ZA or 59 of the Adoption (Northern Ireland) Order 1987;
- (bb) an offence under Article 9, 10, 11, 12, 13, 18(3), 22 or 23 of the Public Order (Northern Ireland) Order 1987;
- (cc) an offence under section 139, 139A, or 141 of the Criminal Justice Act 1988;
- (dd) an offence under Article 3, 4 or 5 of the Crossbows (Northern Ireland) Order 1988;
- (ee) an offence under section 12, 18 or 19 of the Criminal Justice (International Cooperation) Act 1990;
- (ff) an offence under Article 68 or 132 of the Children (Northern Ireland) Order 1995;
- (gg) an offence under Article 11A or 12B of the Road Traffic (Northern Ireland) Order 1995;
- (hh) an offence under Article 53 or 54 of the Criminal Justice (Northern Ireland) Order 1996;
- (ii) an offence under section 2 or 11 of the Chemical Weapons Act 1996;
- (jj) an offence specified in the Schedule to the Disqualification for Caring for Children Regulations (Northern Ireland) 1996;
- (kk) an offence under section 1 or 2 of the Knives Act 1997;
- (ll) an offence under Article 4, 5(6), 6 or 7(5) of the Protection from Harassment (Northern Ireland) Order 1997;
- (mm) an offence under section 2 of the Landmines Act 1998;

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- (nn) an offence under section 35 of the Criminal Justice and Courts Services Act 2000;
- (oo) an offence under section 11, 12, 15, 16, 17, 18, 38B, 39, 58, 60 or paragraph 37 of Schedule 4 to the Terrorism Act 2000;
- (pp) an offence under section 52, 54, 67, 79, 80 or 114 of the Anti-terrorism, Crime and Security Act 2001;
- (qq) an offence under section 58 or 59 of the International Criminal Court Act 2001;
- (rr) an offence under Article 17 of the Criminal Injuries Compensation (Northern Ireland) Order 2002;
- (ss) an offence under section 327, 328, 329, 330, 331, 332, 333A or 342 of the Proceeds of Crime Act 2002;
- (tt) an offence under Article 12, 15(2)(a)-(e), 24 to 28 or 42 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;
- (uu) an offence under Article 30 or 46 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;
- (vv) an offence stated by a court to be aggravated by hostility under Article 2 of the Criminal Justice (No 2) (Northern Ireland) Order 2004;
- (ww) an offence under Article 3, 24, 37, 39, 40, 41, 42, 45, 61, 62, 63 or 67 of the Firearms (Northern Ireland) Order 2004;
- (xx) an offence under section 1 or 2 of the Terrorism Act 2006;
- (yy) an offence under paragraph 1 of Schedule 1 to the Violent Crime Reduction Act 2006;
- (zz) an offence under section 47 of the Wireless Telegraphy Act 2006;
- (aaa) an offence under Article 11, 13 or 23 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007;
- (bbb) an offence under section 27, paragraph 8 of Schedule 3 or paragraph 12 of Schedule 4 to the Justice and Security (Northern Ireland) Act 2007;
- (ccc) an offence under Schedule 1 or Schedule 2 of the Criminal Justice (Northern Ireland) Order 2008;
- (ddd) an offence under Article 68, 69 or 73 of the Sexual Offences (Northern Ireland) Order 2008;
- (eee) an offence under section 71 of the Coroners and Justice Act 2009;
- [<sup>F608</sup>(fff) an offence under article 240 or 241 of the Air Navigation Order 2016;]
- (ggg) an offence specified in the Schedule to the Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2009;
- (hhh) an offence under section 2 of the Cluster Munitions (Prohibitions) Act 2010;
- (iii) an offence under section 93 of the Justice Act (Northern Ireland) 2011;
- (jjj) an offence under regulation 255 of the Human Medicines Regulations 2012;
- (kkk) an offence which has been superseded (directly or indirectly) by an offence within paragraphs (a) to (jjj);
- (lll) an offence of –
  - (i) attempting or conspiring to commit any offence falling within paragraphs (a) to (kkk), or inciting or aiding, abetting, counselling or procuring the commission of any such offence, or

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- (ii) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or committing serious crime) committed in relation to any such offence;
  - (mmm) an offence under the law of England, Scotland or Wales or any territory outside the United Kingdom which corresponds to an offence under the law of Northern Ireland within any of the paragraphs (a) to (lll);
  - (nnn) an offence under section 42 of the Armed Forces Act 2006 in relation to which the corresponding offence under the law of Northern Ireland (within the meaning of that section) is an offence corresponding with any of the paragraphs (a) to (lll); and
  - (ooo) an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 of which the corresponding civil offence (within the meaning of those Acts) is an offence within any of the paragraphs (a) to (lll).
- (6E) For the purposes of the definition of “relevant matter” as it has effect in Northern Ireland–
- (a) “conviction” has the same meaning as in the Rehabilitation of Offenders (Northern Ireland) Order 1978 and includes a spent conviction within the meaning of that Order;
  - (b) a person’s conviction is a current conviction if–
    - (i) the person was aged 18 or over on the date of the conviction and that date fell within the 11 year period ending with the day on which the certificate is issued, or
    - (ii) the person was [<sup>F609</sup>aged under 18] on the date of conviction and that date fell within the period of 5 years and 6 months ending with the day on which the certificate is issued;
  - (c) a caution or restorative caution given to a person is a current caution or restorative caution if–
    - (i) the person was aged 18 or over on the date it was given and that date fell within the 6 year period ending with the day on which the certificate is issued, or
    - (ii) the person was aged under 18 on the day it was given and that date fell within the 2 year period ending with the day on which the certificate is issued;
  - (d) a diversionary youth conference given to a person is a current diversionary youth conference if the person was aged under 18 on the date it was given and that date fell within the 2 year period ending with the day on which the certificate is issued;
  - (e) an informed warning given to a person is a current informed warning if the date on which it was given fell within the 1 year period ending with the day on which the certificate is issued;
  - (f) “sentence of imprisonment”, “sentence of service detention” and “custodial order” have the same meaning as in Articles 2 and 6 of the Rehabilitation of Offenders (Northern Ireland) Order 1978.]

[ The Secretary of State may by order amend the definitions of “central records” and <sup>F175</sup>(7) “relevant matter” in subsection (6).

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- (8) The power to make an order under subsection (7) is exercisable by statutory instrument, but no such order may be made unless a draft of the instrument containing the order is laid before and approved by resolution of each House of Parliament.]

[ For the purposes of this Part a person acts as the registered person in relation to an <sup>F610</sup>(9) application for a criminal record certificate if the person—

- (a) countersigns the application, or  
(b) transmits the application to the Department under subsection (2A).]]

### Textual Amendments

- F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F163** Words in s. 113A(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 79\(1\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2007/564](#), [art. 2](#), [sch.](#); and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 97\(2\)](#), [116\(1\)](#), [Sch. 8 Pt. 8](#); [S.I. 2010/125](#), [art. 2\(n\)\(u\)](#)
- F175** S. 113A(7)(8) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), [s. 65](#), [Sch. 9 para. 14\(2\)](#) (with [ss. 51](#), [57\(3\)](#), [60\(4\)](#), [64\(5\)](#)); [S.I. 2009/2610](#), [art. 2\(a\)](#) (with [arts. 4-23](#)); [S.I. 2009/2611](#), [art. 2](#), [Sch](#)
- F603** S. 113A(1)(aa) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 38\(1\)](#), [106\(2\)](#); [S.R. 2015/358](#), [art. 2\(c\)](#)
- F604** S. 113A(2A) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 44\(1\)](#), [106\(2\)](#); [S.R. 2015/358](#), [art. 2\(f\)](#)
- F605** S. 113A(4) repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 37\(1\)\(b\)](#), [106\(2\)](#), [Sch. 9 Pt. 3](#); [S.R. 2015/358](#), [art. 2\(a\)](#)
- F606** Words in s. 113A(6) substituted (N.I.) (14.4.2014) by [The Police Act 1997 \(Criminal Record Certificates Relevant Matters\) \(Amendment\) Order \(Northern Ireland\) 2014 \(S.R. 2014/100\)](#), [arts. 1](#), [3](#)
- F607** S. 113A(6D)(6E) inserted (N.I.) (14.4.2014) by [The Police Act 1997 \(Criminal Record Certificates Relevant Matters\) \(Amendment\) Order \(Northern Ireland\) 2014 \(S.R. 2014/100\)](#), [arts. 1](#), [4](#)
- F608** S. 113A(6D)(fff) substituted (N.I.) (25.8.2016) by [The Air Navigation Order 2016 \(S.I. 2016/765\)](#), [art. 1](#), [Sch. 14 para. 2\(a\)](#) (with [arts. 17-23](#), [274\(2\)-\(4\)](#))
- F609** Words in s. 113A(6E)(b)(ii) substituted (N.I.) (8.7.2014) by [The Police Act 1997 \(Criminal Record Certificates: Relevant Matters\) \(Amendment No. 2\) Order \(Northern Ireland\) 2014 \(S.R. 2014/207\)](#), [arts. 1](#), [2](#)
- F610** S. 113A(9) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [s. 106\(2\)](#), [Sch. 5 para. 1\(3\)](#); [S.R. 2015/358](#), [art. 2\(m\)\(i\)](#)

### Commencement Information

- I55** S. 113A in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), [art. 2\(b\)](#)

## [<sup>F161</sup>113A Criminal record certificates **S**

- (1) The Secretary of State must issue a criminal record certificate to any individual who—
- (a) makes an application <sup>F163</sup>..., and
- (b) pays in the prescribed manner any prescribed fee.

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- (2) The application must—
- (a) be countersigned by a registered person, and
  - (b) be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.
- (3) A criminal record certificate is a certificate which—
- (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records, [<sup>F611</sup>(or states that there is no such matter); and
  - (b) if the applicant is subject to notification requirements under Part 2 of the Sexual Offences Act 2003 (c. 42), states that fact.]
- [ But a criminal record certificate must not give the details of a relevant matter if—
- <sup>F612</sup>(3A)
  - (a) those details were excluded from another criminal record certificate by virtue of an order under section 116ZB(9)(b), and
  - (b) it appears to the Scottish Ministers that the application under subsection (1) is made for the same purpose for which the application for the other certificate was made.]
- <sup>F613</sup>(4) . . . . .
- (5) The Secretary of State may treat an application under this section as an application under section 113B if—
- (a) in his opinion the certificate is required for a purpose prescribed under subsection (2) of that section,
  - (b) the registered person provides him with the statement required by that subsection, and
  - (c) the applicant consents and pays to the Secretary of State the amount (if any) by which the fee payable in relation to an application under that section exceeds the fee paid in relation to the application under this section.
- [ The Scottish Ministers need not issue a criminal record certificate under subsection (1)
- <sup>F614</sup>(5A) if the statement accompanying the application states that the purpose for which the certificate is required is the purpose mentioned in disclosure condition C (set out in section 55 of the Protection of Vulnerable Groups (Scotland) Act 2007) (asp 14)].
- (6) In this section—
- “central records” means such records of convictions [<sup>F615</sup>, cautions or other information] held for the use of police forces generally as may be prescribed;
- [<sup>F616</sup>“conviction” means a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction,]
- “exempted question” means a question in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act;
- “relevant matter” means—
- (a) [<sup>F617</sup>a conviction which is not a protected conviction,
  - (b) a caution which is not spent by virtue of schedule 3 of the Rehabilitation of Offenders Act 1974, and]
  - (c) [<sup>F618</sup>a prescribed court order.]]

**Status:** Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Textual Amendments

- F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F163** Words in s. 113A(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 79\(1\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2007/564](#), [art. 2](#), [sch.](#); and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 97\(2\)](#), [116\(1\)](#), [Sch. 8 Pt. 8](#); [S.I. 2010/125](#), [art. 2\(n\)\(u\)](#)
- F611** Words in s. 113A(3) substituted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 78\(2\)\(a\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))
- F612** S. 113A(3A) inserted (S.) (8.2.2016) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial \(No. 2\) Order 2015 \(S.S.I. 2015/423\)](#), [arts. 1\(2\)](#), [3\(2\)\(a\)](#) (with [arts. 5-10](#), [12](#))
- F613** S. 113A(4) repealed (S.) (8.2.2016) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial \(No. 2\) Order 2015 \(S.S.I. 2015/423\)](#), [arts. 1\(2\)](#), [3\(2\)\(b\)](#) (with [arts. 5-10](#), [12](#))
- F614** S. 113A(5A) inserted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [s. 101\(2\)](#), [sch. 4 para. 28](#) (with [ss. 90](#), [99](#)); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))
- F615** Words in s. 113A(6) substituted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 78\(2\)\(b\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))
- F616** Words in s. 113A(6) inserted (S.) (8.2.2016) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial \(No. 2\) Order 2015 \(S.S.I. 2015/423\)](#), [arts. 1\(2\)](#), [3\(2\)\(c\)\(i\)](#) (with [arts. 5-10](#), [12](#))
- F617** Words in s. 113A(6) substituted (S.) (8.2.2016) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial \(No. 2\) Order 2015 \(S.S.I. 2015/423\)](#), [arts. 1\(2\)](#), [3\(2\)\(c\)\(ii\)](#) (with [arts. 5-10](#), [12](#))
- F618** Words in s. 113A(6) inserted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 78\(2\)\(d\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))

### 113B Enhanced criminal record certificates **E+W**

- (1) <sup>F179</sup>[DBS] must issue an enhanced criminal record certificate to any individual who—
- (a) makes an application <sup>F180</sup>...,
- <sup>F181</sup>(aa) [ is aged 16 or over at the time of making the application,] and
- (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
- (a) be countersigned by a registered person, and
- (b) be accompanied by a statement by the registered person that the certificate is required <sup>F182</sup>[for the purposes of an exempted question asked] for a prescribed purpose.

[ But an application for an enhanced criminal record certificate need not be <sup>F183</sup>(2A) countersigned by a registered person if—

- (a) the application is transmitted to <sup>F184</sup>[DBS] electronically by a registered person who satisfies conditions determined by <sup>F184</sup>[DBS], and

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- (b) it is transmitted in accordance with requirements determined by [F184DBS].]
- (3) An enhanced criminal record certificate is a certificate which—
  - (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records and any information provided in accordance with subsection (4), or
  - (b) states that there is no such matter or information.
- (4) F185 Before issuing an enhanced criminal record certificate [F186DBS] must request any relevant chief officer to provide any information which ...—
  - (a) [F187the chief officer reasonably believes to] be relevant for the purpose described in the statement under subsection (2), and
  - (b) [F188in the chief officer's opinion,] ought to be included in the certificate.
- [ In exercising functions under subsection (4) a relevant chief officer must have regard F189(4A) to any guidance for the time being published by the Secretary of State.]
- F190(5) .....
- F190(6) .....
- (7) [F191DBS] may treat an application under this section as an application under section 113A if in [F192its] opinion the certificate is not required for a purpose prescribed under subsection (2).
- (8) If by virtue of subsection (7) [F193DBS] treats an application under this section as an application under section 113A, [F194it] must refund to the applicant the amount (if any) by which the fee paid in relation to the application under this section exceeds the fee payable in relation to an application under section 113A.
- (9) In this section—
  - “central records”, “exempted question”, and “relevant matter” have the same meaning as in section 113A;
  - [F195“relevant chief officer” means any chief officer of a police force who is identified by [F196DBS] for the purposes of making a request under subsection (4).]
  - F197 ...
- (10) For the purposes of this section references to a police force include any of the following—
  - [F198(a) the Royal Navy Police;]
  - (c) the Royal Military Police;
  - (d) the Royal Air Force Police;
  - (e) the Ministry of Defence Police;
  - F199(f) .....
  - F199(g) .....
  - (h) the British Transport Police;
  - (i) the Civil Nuclear Constabulary;
  - (j) the States of Jersey Police Force;
  - (k) the salaried police force of the Island of Guernsey;
  - (l) the Isle of Man Constabulary;



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(m) a body with functions in any country or territory outside the British Islands which correspond to those of a police force in any part of the United Kingdom, and any reference to the chief officer of a police force includes the person responsible for the direction of a body mentioned in this subsection.

(11) For the purposes of this section each of the following must be treated as if it were a police force—

- (a) the Commissioners for Her Majesty's Revenue and Customs (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to any one of the Commissioners);
- (b) the [<sup>F200</sup>National Crime Agency] (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Director General of the Agency);
- (c) such other department or body as is prescribed (and regulations may prescribe in relation to the department or body the person to whom a reference to the chief officer is to be taken to be).

[ For the purposes of this Part a person acts as the registered person in relation to an <sup>F201</sup>(12) application for an enhanced criminal record certificate if the person—

- (a) countersigns the application, or
- (b) transmits the application to [<sup>F202</sup>DBS] under subsection (2A).]

<sup>F203</sup>(13) .....

#### Textual Amendments

- F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 163(2)**, 178(4)(d)(8); [S.S.I. 2006/166](#), art. 2(1)(c); [S.I. 2006/378](#), art. 7(a); [S.I. 2006/2182](#), art. 2; [S.I. 2007/3064](#), art. 2; [S.I. 2008/306](#), art. 2; [S.I. 2008/697](#), art. 2(a); [S.I. 2015/188](#), art. 2
- F179** Words in s. 113B(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(c)** (with Pt. 4)
- F180** Words in s. 113B(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), **ss. 79(1)**, 101(2) (with ss. 90, 99); [S.S.I. 2007/564](#), art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. 97(2), 116(1), **Sch. 8 Pt. 8**; [S.I. 2010/125](#), art. 2(n)(u)
- F181** S. 113B(1)(aa) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 80(1)**, 120 (with s. 97); [S.I. 2012/2234](#), art. 2(s) (with art. 5)
- F182** Words in s. 113B(2)(b) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 9 para. 14(3)** (with ss. 51, 57(3), 60(4), 64(5)); [S.I. 2009/2610](#), art. 2(a) (with arts. 4-23); [S.I. 2009/2611](#), art. 2, Sch.
- F183** S. 113B(2A) inserted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **4(2)**
- F184** Words in s. 113B(2A) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(c)** (with Pt. 4)
- F185** Words in s. 113B(4) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by

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- Protection of Freedoms Act 2012 (c. 9), ss. 82(1)(b), 120, **Sch. 10 Pt. 6** (with s. 97); S.I. 2012/2234, art. 2(u)(cc)
- F186** Words in s. 113B(4) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(c)** (with Pt. 4)
- F187** Words in s. 113B(4)(a) substituted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 82\(1\)\(c\), 120](#) (with s. 97); S.I. 2012/2234, art. 2(u)
- F188** Words in s. 113B(4)(b) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 82\(1\)\(d\), 120](#) (with s. 97); S.I. 2012/2234, art. 2(u)
- F189** S. 113B(4A) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 82\(2\), 120](#) (with s. 97); S.I. 2012/2234, art. 2(u)
- F190** S. 113B(5)(6) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157) for specified purposes, 17.6.2013 in so far as not already in force) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 79\(2\)\(b\), 120, Sch. 10 Pt. 6](#) (with s. 97); S.I. 2012/2234, art. 2(q)(cc); S.I. 2013/1180, art. 2(a)
- F191** Words in s. 113B(7) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(c)** (with Pt. 4)
- F192** Word in s. 113B(7) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **39(a)** (with Pt. 4)
- F193** Words in s. 113B(8) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(c)** (with Pt. 4)
- F194** Word in s. 113B(8) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **39(b)** (with Pt. 4)
- F195** Words in s. 113B(9) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 82\(3\)\(a\), 120](#) (with s. 97); S.I. 2012/2234, art. 2(u)
- F196** Words in s. 113B(9) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(c)** (with Pt. 4)
- F197** Words in s. 113B(9) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 82\(3\)\(b\), 120, Sch. 10 Pt. 6](#) (with s. 97); S.I. 2012/2234, art. 2(u)(cc)
- F198** S. 113B(10)(a) substituted for s. 113(10)(a)(b) (4.6.2007) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 16 para. 149](#); S.I. 2007/1442, art. 2(1)
- F199** S. 113B(10)(f)(g) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 8 para. 60\(a\)](#); S.I. 2013/1682, art. 3(v)
- F200** Words in s. 113B(11)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 8 para. 60\(b\)](#); S.I. 2013/1682, art. 3(v)
- F201** S. 113B(12) inserted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **4(4)**
- F202** Words in s. 113B(12) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(c)** (with Pt. 4)
- F203** S. 113B(13) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of](#)

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Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 37, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)

**Modifications etc. (not altering text)**

- C22** S. 113B modified (E.W.) (31.3.2010) by [The Safeguarding Vulnerable Groups Act 2006 \(Controlled Activity and Miscellaneous Provisions\) Regulations 2010 \(S.I. 2010/1146\)](#), regs. 1, **5-7**
- C23** S. 113B(1)(a) modified (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **21(1)**

**113B Enhanced criminal record certificates** **N.I.**

- (1) The Secretary of State must issue an enhanced criminal record certificate to any individual who—
  - (a) makes an application <sup>F180</sup> ...,
  - <sup>F619</sup>(aa) except in prescribed circumstances, is aged 16 or over at the time of making the application,] and
  - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
  - (a) be countersigned by a registered person, and
  - (b) be accompanied by a statement by the registered person that the certificate is required <sup>F182</sup>for the purposes of an exempted question asked] for a prescribed purpose.
- <sup>F620</sup>(2A) But an application for an enhanced criminal record certificate need not be countersigned by a registered person if—
  - (a) the application is transmitted to the Department electronically by a registered person who satisfies conditions determined by the Department, and
  - (b) it is transmitted in accordance with requirements determined by the Department.]
- (3) An enhanced criminal record certificate is a certificate which—
  - (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records and any information provided in accordance with subsection (4), or
  - (b) states that there is no such matter or information.
- (4) <sup>F621</sup>Before issuing an enhanced criminal record certificate the Secretary of State must request <sup>F622</sup>[any relevant chief officer] to provide any information which ... —
  - (a) <sup>F623</sup>[the chief officer reasonably believes to] be relevant for the purpose described in the statement under subsection (2), and
  - (b) <sup>F624</sup>[in the chief officer's opinion,] ought to be included in the certificate.
- <sup>F625</sup>(4A) The Department may from time to time publish guidance to chief officers as to the exercise of functions under subsection (4); and in exercising functions under that subsection a relevant chief officer must have regard to any guidance for the time being published under this subsection.]

<sup>F626</sup>(5) .....

<sup>F626</sup>(6) .....

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(7) The Secretary of State may treat an application under this section as an application under section 113A if in his opinion the certificate is not required for a purpose prescribed under subsection (2).

(8) If by virtue of subsection (7) the Secretary of State treats an application under this section as an application under section 113A, he must refund to the applicant the amount (if any) by which the fee paid in relation to the application under this section exceeds the fee payable in relation to an application under section 113A.

(9) In this section—

“central records”, “exempted question”, and “relevant matter” have the same meaning as in section 113A;

[<sup>F627</sup>“relevant chief officer” means any chief officer of a police force who is identified by the Department for the purposes of making a request under subsection (4);]

<sup>F628</sup> ...

(10) For the purposes of this section references to a police force include any of the following—

- [<sup>F198</sup>(a) the Royal Navy Police;]
  - (c) the Royal Military Police;
  - (d) the Royal Air Force Police;
  - (e) the Ministry of Defence Police;
  - <sup>F199</sup>(f) .....
  - <sup>F199</sup>(g) .....
  - (h) the British Transport Police;
  - (i) the Civil Nuclear Constabulary;
  - (j) the States of Jersey Police Force;
  - (k) the salaried police force of the Island of Guernsey;
  - (l) the Isle of Man Constabulary;
  - (m) a body with functions in any country or territory outside the British Islands which correspond to those of a police force in any part of the United Kingdom,
- and any reference to the chief officer of a police force includes the person responsible for the direction of a body mentioned in this subsection.

(11) For the purposes of this section each of the following must be treated as if it were a police force—

- (a) the Commissioners for Her Majesty's Revenue and Customs (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to any one of the Commissioners);
- (b) the [<sup>F200</sup>National Crime Agency] (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Director General of the Agency);
- (c) such other department or body as is prescribed (and regulations may prescribe in relation to the department or body the person to whom a reference to the chief officer is to be taken to be).

[<sup>F629</sup>(12) For the purposes of this Part a person acts as the registered person in relation to an application for an enhanced criminal record certificate if the person—

- (a) countersigns the application, or

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(b) transmits the application to the Department under subsection (2A).]

#### Textual Amendments

- F180** Words in s. 113B(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 79\(1\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2007/564](#), [art. 2](#), [sch.](#); and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 97\(2\)](#), [116\(1\)](#), [Sch. 8 Pt. 8](#); [S.I. 2010/125](#), [art. 2\(n\)\(u\)](#)
- F182** Words in s. 113B(2)(b) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), [s. 65](#), [Sch. 9 para. 14\(3\)](#) (with [ss. 51](#), [57\(3\)](#), [60\(4\)](#), [64\(5\)](#)); [S.I. 2009/2610](#), [art. 2\(a\)](#) (with [arts. 4-23](#)); [S.I. 2009/2611](#), [art. 2](#), [Sch.](#)
- F198** S. 113B(10)(a) substituted for s. 113(10)(a)(b) (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), [s. 383\(2\)](#), [Sch. 16 para. 149](#); [S.I. 2007/1442](#), [art. 2\(1\)](#)
- F199** S. 113B(10)(f)(g) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(2\)](#), [Sch. 8 para. 60\(a\)](#); [S.I. 2013/1682](#), [art. 3\(v\)](#)
- F200** Words in s. 113B(11)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(2\)](#), [Sch. 8 para. 60\(b\)](#); [S.I. 2013/1682](#), [art. 3\(v\)](#)
- F619** S. 113B(1)(aa) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 38\(1\)](#), [106\(2\)](#); [S.R. 2015/358](#), [art. 2\(c\)](#)
- F620** S. 113B(2A) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 44\(2\)](#), [106\(2\)](#); [S.R. 2015/358](#), [art. 2\(f\)](#)
- F621** Words in s. 113B(4) repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 40\(1\)\(b\)](#), [106\(2\)](#), [Sch. 9 Pt. 3](#); [S.R. 2015/358](#), [art. 2\(e\)](#)
- F622** Words in s. 113B(4) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 40\(1\)\(a\)](#), [106\(2\)](#); [S.R. 2015/358](#), [art. 2\(e\)](#)
- F623** Words in s. 113B(4)(a) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 40\(1\)\(c\)](#), [106\(2\)](#); [S.R. 2015/358](#), [art. 2\(e\)](#)
- F624** Words in s. 113B(4)(b) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 40\(1\)\(d\)](#), [106\(2\)](#); [S.R. 2015/358](#), [art. 2\(e\)](#)
- F625** S. 113B(4A) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 40\(2\)](#), [106\(2\)](#); [S.R. 2015/358](#), [art. 2\(e\)](#)
- F626** S. 113B(5)(6) repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 37\(1\)\(c\)](#), [106\(2\)](#), [Sch. 9 Pt. 3](#); [S.R. 2015/358](#), [art. 2\(a\)](#)
- F627** Words in s. 113B(9) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 40\(3\)\(a\)](#), [106\(2\)](#); [S.R. 2015/358](#), [art. 2\(e\)](#)
- F628** Words in s. 113B(9) repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 40\(3\)\(b\)](#), [106\(2\)](#), [Sch. 9 Pt. 3](#); [S.R. 2015/358](#), [art. 2\(e\)](#)
- F629** S. 113B(12) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [s. 106\(2\)](#), [Sch. 5 para. 2\(3\)](#); [S.R. 2015/358](#), [art. 2\(m\)\(i\)](#)

#### Modifications etc. (not altering text)

- C36** S. 113B(10)(11) applied by [S.I. 2007/1351 \(N.I. 11\)](#), [Sch. 1 para. 19\(7A\)](#) (as inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [s. 106\(2\)](#), [Sch. 5 para. 20\(6\)](#); [S.R. 2015/358](#), [art. 2\(m\)\(i\)](#))

#### Commencement Information

- I56** S. 113B in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), [art. 2\(c\)](#)

#### [<sup>F161</sup>113B Enhanced criminal record certificates **S**

- (1) The Secretary of State must issue an enhanced criminal record certificate to any individual who—

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) makes an application <sup>F180</sup>..., and
  - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
- (a) be countersigned by a registered person, and
  - (b) be accompanied by a statement by the registered person that the certificate is required for a prescribed purpose.
- (3) An enhanced criminal record certificate is a certificate which—
- (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records and any information provided in accordance with subsection (4), [<sup>F630</sup>(or states that there is no such matter or information), and
  - (b) if the applicant is subject to notification requirements under Part 2 of the Sexual Offences Act 2003 (c.42), states that fact.]
- [ But an enhanced criminal record certificate must not give the details of a relevant <sup>F631</sup>(3A) matter if—
- (a) those details were excluded from another enhanced criminal record certificate by virtue of an order under section 116ZB(9)(b), and
  - (b) it appears to the Scottish Ministers that the application under subsection (1) is made for the same purpose for which the application for the other certificate was made.]
- (4) <sup>F632</sup>... Before issuing an enhanced criminal record certificate the Secretary of State must request the chief officer of every relevant police force to provide any information which ...—
- [<sup>F633</sup>(a) the chief officer reasonably believes to be relevant for the purpose described in the statement under subsection (2), and
  - (b) in the chief officer’s opinion, ought to be included in the certificate.]
- <sup>F634</sup>(5) .....
- [ The Scottish Ministers must pay to such body as may be prescribed such fee as they <sup>F635</sup>(5A) think appropriate for information received from the chief officer of a body mentioned in subsection (10)(j) to (m) as a result of a request under subsection (4) <sup>F636</sup>...]
- <sup>F637</sup>(6) .....
- (7) The Secretary of State may treat an application under this section as an application under section 113A if in his opinion the certificate is not required for a purpose prescribed under subsection (2).
- (8) If by virtue of subsection (7) the Secretary of State treats an application under this section as an application under section 113A, he must refund to the applicant the amount (if any) by which the fee paid in relation to the application under this section exceeds the fee payable in relation to an application under section 113A.
- (9) In this section—
- “central records”, “exempted question”, and “relevant matter” have the same meaning as in section 113A;
  - “relevant police force”, in relation to an application under this section, means a police force which is a relevant police force in relation to that application under regulations made by the Secretary of State.

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(10) For the purposes of this section references to a police force include any of the following—

- [<sup>F198</sup>(a) the Royal Navy Police;]
- (c) the Royal Military Police;
- (d) the Royal Air Force Police;
- (e) the Ministry of Defence Police;
- <sup>F199</sup>(f) .....
- <sup>F199</sup>(g) .....
- (h) the British Transport Police;
- (i) the Civil Nuclear Constabulary;
- (j) the States of Jersey Police Force;
- (k) the salaried police force of the Island of Guernsey;
- (l) the Isle of Man Constabulary;
- (m) a body with functions in any country or territory outside the British Islands which correspond to those of a police force in any part of the United Kingdom, and any reference to the chief officer of a police force includes the person responsible for the direction of a body mentioned in this subsection.

(11) For the purposes of this section each of the following must be treated as if it were a police force—

- (a) the Commissioners for Her Majesty's Revenue and Customs (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to any one of the Commissioners);
- (b) the [<sup>F200</sup>National Crime Agency] (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Director General of the Agency);
- (c) such other department or body as is prescribed (and regulations may prescribe in relation to the department or body the person to whom a reference to the chief officer is to be taken to be).]

#### Textual Amendments

**F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2

**F180** Words in s. 113B(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), **ss. 79(1)**, 101(2) (with **ss. 90**, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 97(2)**, 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)

**F198** S. 113B(10)(a) substituted for s. 113(10)(a)(b) (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 149**; S.I. 2007/1442, art. 2(1)

**F199** S. 113B(10)(f)(g) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 60(a)**; S.I. 2013/1682, art. 3(v)

**F200** Words in s. 113B(11)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 60(b)**; S.I. 2013/1682, art. 3(v)

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- F630** Words in s. 113B(3) substituted (S.) (28.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 108(2)**, 206(1); S.S.I. 2011/157, art. 2(b) (with art. 3)
- F631** S. 113B(3A) inserted (S.) (8.2.2016) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015 (S.S.I. 2015/423), arts. 1(2), **3(3)(a)** (with arts. 5-10, 12)
- F632** Words in s. 113B(4) repealed (S.) (8.2.2016) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015 (S.S.I. 2015/423), arts. 1(2), **3(3)(b)(i)** (with arts. 5-10, 12)
- F633** S. 113B(4)(a)(b) substituted (S.) (8.2.2016) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015 (S.S.I. 2015/423), arts. 1(2), **3(3)(b)(ii)** (with arts. 5-10, 12)
- F634** S. 113B(5) repealed (S.) (8.2.2016) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015 (S.S.I. 2015/423), arts. 1(2), **3(3)(c)** (with arts. 5-10, 12)
- F635** S. 113B(5A) inserted (S.) (11.1.2008) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), **ss. 80**, 101(2) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F636** Words in s. 113B(5A) repealed (S.) (8.2.2016) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015 (S.S.I. 2015/423), arts. 1(2), **3(3)(d)** (with arts. 5-10, 12)
- F637** S. 113B(6) repealed (S.) (8.2.2016) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015 (S.S.I. 2015/423), arts. 1(2), **3(3)(e)** (with arts. 5-10, 12)

## **Suitability information relating to children** **E+W+NI**

**F204** **113BA**

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.
- (2) Suitability information relating to children is—
- (a) whether the applicant is barred from regulated activity relating to children;
- F205** (b) .....
- F205** (c) .....
- F205** (d) .....
- F206** (e) [ whether the applicant is subject to a direction under **F207** section 128 of the Education and Skills Act 2008 (prohibition on participation in management of independent educational institution in England) or] section 167A of the Education Act 2002 (prohibition on participation in management of independent school [**F208** in Wales]).]
- (3) Expressions used in this section and in the 2006 Act have the same meaning in this section as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.
- (4) “The 2006 Act” means the Safeguarding Vulnerable Groups Act 2006.]

### **Textual Amendments**

- F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 163(2)**, 178(4)(d)(8); S.S.I.



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2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2

- F204** Ss. 113BA-113BC inserted (E.W.N.I.) (22.6.2009 for specified purposes, 12.10.2009 for E.W. in so far as not already in force, 12.10.2009 for N.I. in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 9 para. 14(4)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/1503, art. 2(a); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.; S.I. 2009/1503, art. 2(a); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.
- F205** S. 113BA(2)(b)-(d) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 38, Sch. 10 Pt. 5; S.I. 2012/2234, art. 2(aa) (i)
- F206** S. 113BA(2)(e) inserted (12.10.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 170(2)**, 188(3); S.I. 2009/2545, art. 3(1)(b)
- F207** Words in s. 113BA(2)(e) inserted (8.9.2014) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 12(a)**; S.I. 2014/2379, art. 2(h)
- F208** Words in s. 113BA(2)(e) inserted (8.9.2014) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 12(b)**; S.I. 2014/2379, art. 2(h)

#### Modifications etc. (not altering text)

- C24** S. 113BA modified (temp.) (N.I.) (with application in accordance with arts. 2, 11 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 12**
- C25** S. 113BA modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 6**

#### <sup>F452</sup> <sub>F638</sub> **Information held outside the United Kingdom** **S**

- 113BA**
- (1) The Scottish Ministers may by order made by statutory instrument amend the definition of—
- “criminal conviction certificate” in section 112(2),
  - “central records” in sections 112(3) and 113A(6),
  - “criminal record certificate” in section 113A(3),
  - “relevant matter” in section 113A(6),
  - “enhanced criminal record certificate” in section 113B(3).
- (2) An order under subsection (1) may be made only for the purposes of, or in connection with, enabling certificates issued under this Part to include details of information held outside the United Kingdom.
- (3) No order may be made under subsection (1) unless a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Scottish Parliament.]]

#### Textual Amendments

- F452** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2
- F638** S. 113BA inserted (S.) (28.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 108(3)**, 206(1); S.S.I. 2011/157, art. 2(b) (with art. 3)

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## **113BB** Suitability information relating to vulnerable adults

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to vulnerable adults.
- (2) Suitability information relating to vulnerable adults is —
- (a) whether the applicant is barred from regulated activity relating to vulnerable adults;
  - <sup>F209</sup>(b) .....
  - <sup>F209</sup>(c) .....
  - <sup>F209</sup>(d) .....
- (3) Expressions used in this section and in the 2006 Act have the same meaning in this section as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.
- (4) “The 2006 Act” means the Safeguarding Vulnerable Groups Act 2006.

### **Textual Amendments**

- F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 163\(2\), 178\(4\)\(d\)\(8\)](#); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F204** Ss. 113BA-113BC inserted (E.W.N.I.) (22.6.2009 for specified purposes, 12.10.2009 for E.W. in so far as not already in force, 12.10.2009 for N.I. in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), s. 65, Sch. 9 para. 14\(4\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/1503, art. 2(a); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.; S.I. 2009/1503, art. 2(a); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.
- F209** S. 113BB(2)(b)-(d) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 39, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)

### **Modifications etc. (not altering text)**

- C26** S. 113BB modified (temp.) (N.I.) (with application in accordance with arts. 2, 11 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\), art. 13](#)
- C27** S. 113BB modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\), art. 7](#)

## **113BC Suitability information: power to amend**

- (1) The Secretary of State may by order made by statutory instrument—
- (a) amend section 113BA for the purpose of altering the meaning of suitability information relating to children;
  - (b) amend section 113BB for the purpose of altering the meaning of suitability information relating to vulnerable adults [<sup>F210</sup>;

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- (c) amend section 120AC(4)(b) in consequence of an order made under paragraph (a) or (b).]
  - <sup>F211</sup>[ amend section 120AC(4)(b) in consequence of an order made under paragraph (a) or (b).]
- (2) Such an order is subject to annulment in pursuance of a resolution of either House of Parliament.]

### Textual Amendments

**F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), art. 2(1)(c); [S.I. 2006/378](#), art. 7(a); [S.I. 2006/2182](#), art. 2; [S.I. 2007/3064](#), art. 2; [S.I. 2008/306](#), art. 2; [S.I. 2008/697](#), art. 2(a); [S.I. 2015/188](#), art. 2

**F204** Ss. 113BA-113BC inserted (E.W.N.I.) (22.6.2009 for specified purposes, 12.10.2009 for E.W. in so far as not already in force, 12.10.2009 for N.I. in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, [Sch. 9 para. 14\(4\)](#) (with ss. 51, 57(3), 60(4), 64(5)); [S.I. 2009/1503](#), art. 2(a); [S.I. 2009/2610](#), art. 2(a) (with arts. 4-23); [S.I. 2009/2611](#), art. 2, Sch.; [S.I. 2009/1503](#), art. 2(a); [S.I. 2009/2610](#), art. 2(a) (with arts. 4-23); [S.I. 2009/2611](#), art. 2, Sch.

**F210** S. 113BC(1)(c) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 105](#) (with s. 97); [S.I. 2012/2234](#), art. 2(aa)(vi)

**F211** S. 113BC(1)(c) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 3](#); [S.R. 2015/358](#), art. 2(m)(i)

### <sup>F212</sup>113CA Suitability information relating to children

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.
- (2) Suitability information relating to children is—
  - (a) whether the applicant is barred from regulated work with children;
  - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
  - (c) whether the Scottish Ministers are considering whether to list the individual in the children's list;
  - <sup>F213</sup>(d) .....
  - <sup>F214</sup>[ if a notification order, made under section 97(5) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
    - (i) the date of that order; and
    - (ii) the notification period applying to the applicant by virtue of section 98(1)(b) of that Act;
  - (f) if an interim notification order, made under section 100(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
    - (i) the date of that order; and
    - (ii) the period for which that order has effect by virtue of section 100(4) of that Act;

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*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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- [<sup>F215</sup>(fa) if a sexual harm prevention order, made under section 103A of the Sexual Offences Act 2003, is in effect in respect of the applicant—
- (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which the prohibitions have effect by virtue of section 103C(2) or 103D(1) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 103E(5) of that Act;
- (fb) if an interim sexual harm prevention order, made under section 103F of the Sexual Offences Act 2003, is in effect in respect of the applicant—
- (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 103F(4) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 103F(5) of that Act;]
- (g) if a sexual offences prevention order, made under section 104(1) or 105(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
- (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 107(1) (b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 108(4) of that Act;
- (h) if an interim sexual offences prevention order, made under section 109(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
- (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 109(4) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 109(6) of that Act;
- (i) if a foreign travel order, made under section 114(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
- (i) the prohibitions specified in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 117(1) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 118(3) of that Act;
- [<sup>F216</sup>(ia) if a sexual risk order, made under section 122A of the Sexual Offences Act 2003, is in effect in respect of the applicant—
- (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which the prohibitions have effect by virtue of section 122A(7) or 122C(1) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 122D(4) of that Act;

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*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (ib) if an interim sexual risk order, made under section 122E of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 122E(4) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 122E(5) of that Act;]
- (j) if a risk of sexual harm order, made under section 123(4) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 123(5) (b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 125(3) of that Act;
- (k) if an interim risk of sexual harm order, made under section 126(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 126(4) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 126(5) of that Act;
- (l) if a risk of sexual harm order, made under section 2(6) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 2(7)(b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 4(3) of that Act;
- (m) if an interim risk of sexual harm order, made under section 5(3) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 5(5) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 5(6) of that Act.]

#### Textual Amendments

**F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified

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purposes) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2

**F212** Ss. 113CA-113CC inserted (S.) (18.4.2010 for specified purposes, 28.2.2011 in so far as not already in force) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 29** (with ss. 90, 99); S.S.I. 2010/133, art. 2, **sch.**; S.S.I. 2011/157, art. 2(a) (with art. 3)

**F213** S. 113CA(2)(d) repealed (S.) (28.2.2011) by The Police Act 1997 (Alteration of the Meaning of Suitability Information relating to Children and Protected Adults) (Scotland) (No. 2) Order 2010 (S.S.I. 2010/382), arts. 1, 2

**F214** S. 113CA(2)(e)-(m) inserted (S.) (28.2.2011) by The Police Act 1997 (Alteration of the Meaning of Suitability Information relating to Children and Protected Adults) (Scotland) Order 2010 (S.S.I. 2010/190), arts. 1, 2

**F215** S. 113CA(2)(fa)(fb) inserted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 53(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

**F216** S. 113CA(2)(ia)(ib) inserted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 53(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

### 113CB Suitability information relating to protected adults

(1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to protected adults.

(2) Suitability information relating to protected adults is—

- (a) whether the applicant is barred from regulated work with adults;
- (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
- (c) whether the Scottish Ministers are considering whether to list the individual in the adults' list;

<sup>F217</sup>(d) .....

[ <sup>F218</sup>(e) if a notification order, made under section 97(5) of the Sexual Offences Act 2003, is in effect in respect of the applicant—

- (i) the date of that order; and
- (ii) the notification period applying to the applicant by virtue of section 98(1)(b) of that Act;

(f) if an interim notification order, made under section 100(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—

- (i) the date of that order; and
- (ii) the period for which that order has effect by virtue of section 100(4) of that Act;

[ <sup>F219</sup>(fa) if a sexual harm prevention order, made under section 103A of the Sexual Offences Act 2003, is in effect in respect of the applicant—

- (i) the prohibitions described in that order;
- (ii) the date of that order;
- (iii) the period for which the prohibitions have effect by virtue of section 103C(2) or 103D(1) of that Act;
- (iv) details as to whether the order has been varied or renewed under section 103E(5) of that Act;

(fb) if an interim sexual harm prevention order, made under section 103F of the Sexual Offences Act 2003, is in effect in respect of the applicant—

- (i) the prohibitions described in that order;

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- (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 103F(4) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 103F(5) of that Act;]
- (g) if a sexual offences prevention order, made under section 104(1) or 105(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 107(1) (b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 108(4) of that Act;
- (h) if an interim sexual offences prevention order, made under section 109(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 109(4) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 109(6) of that Act;
- (i) if a foreign travel order, made under section 114(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions specified in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect virtue of section 117(1) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 118(3) of that Act;
- <sup>F220</sup> [ (ia) if a sexual risk order, made under section 122A of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which the prohibitions have effect by virtue of section 122A(7) or 122C(1) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 122D(4) of that Act;
- (ib) if an interim sexual risk order, made under section 122E of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 122E(4) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 122E(5) of that Act;]
- (j) if a risk of sexual harm order, made under section 123(4) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;

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- (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 123(5) (b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 125(3) of that Act;
- (k) if an interim risk of sexual harm order, made under section 126(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 126(4) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 126(5) of that Act;
- (l) if a risk of sexual harm order, made under section 2(6) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 2(7)(b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 4(3) of that Act;
- (m) if an interim risk of sexual harm order, made under section 5(3) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 5(5) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 5(6) of that Act.]

### Textual Amendments

- F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F212** Ss. 113CA-113CC inserted (S.) (18.4.2010 for specified purposes, 28.2.2011 in so far as not already in force) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [s. 101\(2\)](#), [sch. 4 para. 29](#) (with [ss. 90, 99](#)); [S.S.I. 2010/133](#), [art. 2](#), [sch.](#); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))
- F217** S. 113CB(2)(d) repealed (S.) (28.2.2011) by [The Police Act 1997 \(Alteration of the Meaning of Suitability Information relating to Children and Protected Adults\) \(Scotland\) \(No. 2\) Order 2010 \(S.S.I. 2010/382\)](#), [arts. 1, 3](#)
- F218** S. 113CB(2)(e)-(m) inserted (S.) (28.2.2011) by [The Police Act 1997 \(Alteration of the Meaning of Suitability Information relating to Children and Protected Adults\) \(Scotland\) Order 2010 \(S.S.I. 2010/190\)](#), [arts. 1, 3](#)



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- F219** S. 113CB(2)(fa)(fb) inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 54(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F220** S. 113CB(2)(ia)(ib) inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014](#) (c. 12), s. 185(1), **Sch. 11 para. 54(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

### 113CC Suitability information: supplementary

- (1) The Scottish Ministers may by order made by statutory instrument—
  - (a) amend section 113CA for the purpose of altering the meaning of suitability information relating to children;
  - (b) amend section 113CB for the purpose of altering the meaning of suitability information relating to protected adults.
- (2) Such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (3) Expressions used in sections 113CA and 113CB and in the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) have the same meaning in those sections as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.]

#### Textual Amendments

- F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005](#) (c. 15), **ss. 163(2), 178(4)(d)(8)**; S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F212** Ss. 113CA-113CC inserted (S.) (18.4.2010 for specified purposes, 28.2.2011 in so far as not already in force) by [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (asp 14), s. 101(2), **sch. 4 para. 29** (with ss. 90, 99); S.S.I. 2010/133, art. 2, sch.; S.S.I. 2011/157, art. 2(a) (with art. 3)

### <sup>F221</sup> 113C Criminal record certificates: suitability relating to children

#### Textual Amendments

- F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005](#) (c. 15), **ss. 163(2), 178(4)(d)(8)**; S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F221** Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006](#) (c. 47), s. 65, Sch. 10 (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(b) (with arts. 4-23)
- Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007](#) (S.I. 2007/1351), art. 1(3), Sch. 8 (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/304, art. 3(a)

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Ss. 113C-113F repealed (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 30](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

## <sup>F221</sup>113D Criminal record certificates: suitability relating to adults

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### Textual Amendments

**F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2

**F221** Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, Sch. 10 (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(b) (with arts. 4-23)  
Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\)](#), art. 1(3), Sch. 8 (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/304, art. 3(a)  
Ss. 113C-113F repealed (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 30](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

## <sup>F222</sup><sup>F221</sup>113E Criminal record certificates: specified children's and adults' lists: urgent cases

- (1) Subsection (2) applies to an application under section 113A or 113B if—
  - (a) it is accompanied by a children's suitability statement,
  - (b) the registered person requests an urgent preliminary response, and
  - (c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.
- (2) [<sup>F223</sup>The Secretary of State][<sup>F223</sup>DBS] must notify the registered person—
  - (a) if the applicant is not included in a specified children's list, of that fact;
  - (b) if the applicant is included in such a list, of the details prescribed for the purposes of section 113C(1)(b) above;
  - (c) if the applicant is not subject to a specified children's direction, of that fact;
  - (d) if the applicant is subject to such a direction, of the grounds on which the direction was given and the details prescribed for the purposes of section 113C(1)(d) above.
- (3) Subsection (4) applies to an application under section 113A or 113B if—
  - (a) it is accompanied by an adults' suitability statement,
  - (b) the registered person requests an urgent preliminary response, and
  - (c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.
- (4) [<sup>F224</sup>The Secretary of State][<sup>F224</sup>DBS] must notify the registered person either—
  - (a) that the applicant is not included in a specified adults' list, or

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(b) that a criminal record certificate or enhanced criminal record certificate will be issued in due course.

(5) In this section—

“criminal record certificate” has the same meaning as in section 113A;  
“enhanced criminal record certificate” has the same meaning as in section 113B;  
“children's suitability statement” “, specified children's direction” and “specified children's list” have the same meaning as in section 113C;  
“adults' suitability statement” and “specified adults' list” have the same meaning as in section 113D.]

### Textual Amendments

**F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 163\(2\), 178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166, art. 2\(1\)\(c\)](#); [S.I. 2006/378, art. 7\(a\)](#); [S.I. 2006/2182, art. 2](#); [S.I. 2007/3064, art. 2](#); [S.I. 2008/306, art. 2](#); [S.I. 2008/697, art. 2\(a\)](#); [S.I. 2015/188, art. 2](#)

**F221** Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), s. 65, Sch. 10 \(with ss. 51, 57\(3\), 60\(4\), 64\(5\)\)](#); [S.I. 2009/2610, art. 2\(b\) \(with arts. 4-23\)](#)

Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\), art. 1\(3\), Sch. 8 \(with arts. 2\(4\), 53, 57\(3\), 61\(4\)\)](#); [S.R. 2009/304, art. 3\(a\)](#)

Ss. 113C-113F repealed (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), sch. 4 para. 30 \(with ss. 90, 99\)](#); [S.S.I. 2011/157, art. 2\(a\) \(with art. 3\)](#)

**F222** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 163\(2\), 178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166, art. 2\(1\)\(c\)](#); [S.I. 2006/378, art. 7\(a\)](#); [S.I. 2006/2182, art. 2](#); [S.I. 2007/3064, art. 2](#); [S.I. 2008/306, art. 2](#); [S.I. 2008/697, art. 2\(a\)](#)

**F223** Words in s. 113E(2) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(d\) \(with Pt. 4\)](#)

**F224** Words in s. 113E(4) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(d\) \(with Pt. 4\)](#)

### Modifications etc. (not altering text)

**C28** S. 113E modified (temp.) (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\), arts. 1\(1\), 14](#)

**C29** S. 113E modified (10.9.2012) by [The Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\), arts. 1\(1\), 8](#)

<sup>F221</sup> **113F Criminal record certificates: supplementary**

.....]

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F161** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F221** Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), [s. 65](#), [Sch. 10](#) (with [ss. 51](#), [57\(3\)](#), [60\(4\)](#), [64\(5\)](#)); [S.I. 2009/2610](#), [art. 2\(b\)](#) (with [arts. 4-23](#))  
Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\)](#), [art. 1\(3\)](#), [Sch. 8](#) (with [arts. 2\(4\)](#), [53](#), [57\(3\)](#), [61\(4\)](#)); [S.R. 2009/304](#), [art. 3\(a\)](#)  
Ss. 113C-113F repealed (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [s. 101\(2\)](#), [sch. 4 para. 30](#) (with [ss. 90](#), [99](#)); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))

## 114 Criminal record certificates: Crown employment.

- (1) [<sup>F225</sup>The Secretary of State][<sup>F225</sup>DBS] shall issue a criminal record certificate to any individual who—
- (a) makes an application under this section <sup>F226</sup>....,
  - [<sup>F227</sup>(aa) is aged 16 or over at the time of making the application,]
  - [<sup>F228</sup>(aa) except in prescribed circumstances, is aged 16 or over at the time of making the application,] and
  - [<sup>F229</sup>(b) pays in the prescribed manner any prescribed fee]
- (2) An application under this section must be accompanied by a statement by [<sup>F230</sup>a Minister of the Crown][<sup>F230</sup>a person mentioned in subsection (2A)] that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant's suitability for an appointment by or under the Crown.
- [<sup>F231</sup>(2A) Any of the following persons may make a statement for the purposes of subsection (2)
- (a) a Minister of the Crown;
  - (b) a member of the Scottish Executive;
  - (c) any other office-holder in the Scottish Administration; or
  - (d) a nominee of any person mentioned in paragraphs (a) to (c).]
- (3) [<sup>F232</sup>[<sup>F233</sup>Section 113A(3) to (6)]] [<sup>F232</sup>Sections 113A(3) to (6), 120AC and 120AD] shall apply in relation to this section with any necessary modifications.

### Textual Amendments

- F225** Words in s. 114(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), [arts. 1\(1\)](#), [37\(e\)](#) (with [Pt. 4](#))
- F226** Words in s. 114(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 79\(1\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2007/564](#), [art. 2](#), [sch.](#); and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 97\(3\)](#), [116\(1\)](#), [Sch. 8 Pt. 8](#); [S.I. 2010/125](#), [art. 2\(n\)\(u\)](#)

**Status:** Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F227** S. 114(1)(aa) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), **ss. 80(1), 120** (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F228** S. 114(1)(aa) inserted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), **ss. 38(1), 106(2)**; S.R. 2015/358, art. 2(c)
- F229** S. 114(1)(b) substituted (S.) (7.2.2006) by The Police Act 1997 Amendment (Scotland) Order 2006 (S.S.I. 2006/50), arts. 1(1), **2(3)(b)**
- F230** Words in s. 114(2) substituted (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 31(a)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F231** S. 114(2A) inserted (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 31(b)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F232** Words in s. 114(3) substituted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 106** (with s. 97); S.I. 2012/2234, art. 2(aa) (vi); and substituted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 4**; S.R. 2015/358, art. 2(m)(i)
- F233** Words in s. 114(3) substituted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 9 para. 14(5)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.; and substituted (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 31(c)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

#### Commencement Information

- I8** S. 114 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**  
S. 114 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**
- I9** S. 114 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(g)**

#### <sup>F234</sup>**115 Enhanced criminal record certificates.** **E+W+N.I.**

#### Extent Information

- E1** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

#### Textual Amendments

- F234** S. 115 repealed (1.4.2006 for S., 6.4.2006 for E.W.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 163(1), 178(4)(d)(8), **Sch. 17 Pt. 2**; S.S.I. 2006/166, art. 2(1)(c)(d); S.I. 2006/378, art. 7(a) (f)

#### <sup>F234</sup><sup>F452</sup>**115 Enhanced criminal record certificates.** **S**

#### Extent Information

- E11** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F234** S. 115 repealed (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005](#) (c. 15), ss. 163(1), 178(4)(d)(8), **Sch. 17 Pt. 2**; S.S.I. 2006/166, art. 2(1)(c)(d); S.I. 2006/378, art. 7(a)(f)
- F452** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003](#) (asp 7), ss. **70(8)**, 89(2); S.S.I. 2006/168, art. 2

## 116 Enhanced criminal record certificates: judicial appointments and Crown employment.

- (1) [<sup>F235</sup>The Secretary of State][<sup>F235</sup>DBS] shall issue an enhanced criminal record certificate to any individual who—
- (a) makes an application under this section <sup>F236</sup> ...,
  - [<sup>F237</sup>(aa) is aged 16 or over at the time of making the application,]
  - [<sup>F238</sup>(aa) except in prescribed circumstances, is aged 16 or over at the time of making the application,] and
  - [<sup>F239</sup>(b) pays in the prescribed manner any prescribed fee]
- (2) An application under this section must be accompanied by a statement by [<sup>F240</sup>a Minister of the Crown, or a person nominated by a Minister of the Crown,][<sup>F240</sup>a person mentioned in subsection (2A)] that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant's suitability for—
- (a) a judicial appointment, or
  - (b) an appointment by or under the Crown to a position [<sup>F241</sup>to which subsection (3) or (4) of section 115 applies][<sup>F241</sup>of such description as may be prescribed].
- [<sup>F242</sup>(2A) Any of the following persons may make a statement for the purposes of subsection (2)
- (a) a Minister of the Crown;
  - (b) a member of the Scottish Executive;
  - (c) any other office-holder in the Scottish Administration; or
  - (d) a nominee of any person mentioned in paragraphs (a) to (c).]
- (3) [<sup>F243</sup>Sections 113B(3) to (11) [<sup>F244</sup>and [<sup>F245</sup>113BA to 113BC]]][<sup>F244</sup>, 113BA to 113BC, 120AC and 120AD][<sup>F246</sup>113CA to 113CC]] shall apply in relation to this section with any necessary modifications.

### Textual Amendments

- F235** Words in s. 116(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012](#) (S.I. 2012/3006), arts. 1(1), **37(f)** (with Pt. 4)
- F236** Words in s. 116(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (asp 14), ss. **79(1)**, 101(2) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009](#) (c. 26), ss. 97(3), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F237** S. 116(1)(aa) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012](#) (c. 9), ss. **80(1)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F238** S. 116(1)(aa) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015](#) (c. 9), ss. **38(1)**, 106(2); S.R. 2015/358, art. 2(c)

**Status:** Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F239** S. 116(1)(b) substituted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\)](#), arts. 1(1), **2(4)(b)**
- F240** Words in s. 116(2) substituted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 32(a)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F241** Words in s. 116(2)(b) substituted (E.W.N.I.) (29.1.2004 for specified purposes for E.W., 6.4.2006 for E.W. in so far as not already in force, 1.4.2008 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 35 para. 5**; S.I. 2004/81, art. 4(1)(2)(o)(ii); S.I. 2006/751, art. 2(c)(i); S.I. 2008/694, art. 2
- F242** S. 116(2A) inserted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 32(b)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F243** Words in s. 116(3) substituted (1.4.2006 for S., 6.4.2006 for E.W., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 3(b)**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2008/697, art. 2(e)
- F244** Words in s. 116(3) substituted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 107 (with s. 97); S.I. 2012/2234, art. 2(aa) (vi); and substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 5**; S.R. 2015/358, art. 2(m)(i)
- F245** Words in s. 116(3) substituted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, Sch. 9 para. 14(6) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.
- F246** Words in s. 116(3) substituted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 32(c)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

#### Modifications etc. (not altering text)

- C30** S. 116 modified (temp.) (N.I.) (with application in accordance with arts. 2, 14 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 15** (which modifying provision is revoked (10.9.2012) by [The Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order \(Northern Ireland\) 2012 \(S.R. 2012/320\)](#), arts. 1, 4)
- C31** S. 116 modified (E.W.) (10.9.2012) by [The Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#), arts. 1(1), **9**
- C32** S. 116 modified (N.I.) (temp.) (10.9.2012) by [The Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order \(Northern Ireland\) 2012 \(S.R. 2012/320\)](#), arts. 1, **5, 7**

#### Commencement Information

- I10** S. 116 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**  
S. 116 in force at 25.4.2002 for S. by S.S.I. 2002/124, art. 4
- I11** S. 116 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(h)**

### [<sup>F247</sup>116Z] Copies of criminal record certificate or enhanced criminal record certificate

- (1) Subsection (2) applies where—
- (a) the Scottish Ministers issue a criminal record certificate or an enhanced criminal record certificate, and
  - (b) the certificate does not include details of a conviction for an offence listed in schedule 8B which is—
    - (i) a spent conviction, but
    - (ii) not a protected conviction.
- (2) The Scottish Ministers must send a copy of the certificate to the relevant person at the same time as they issue the certificate.

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) Subsections (4) and (5) apply where—
- (a) the Scottish Ministers issue a criminal record certificate or an enhanced criminal record certificate to an individual, and
  - (b) the certificate includes details of a conviction for an offence listed in schedule 8B which is—
    - (i) a spent conviction, but
    - (ii) not a protected conviction.
- (4) Where—
- (a) the individual notifies the Scottish Ministers before the end of the period mentioned in section 116ZB(3)(a) that the individual does not intend to make an application under section 116ZB(2), or
  - (b) that period expires without the individual having notified the Scottish Ministers that the individual does intend to make such an application
- the Scottish Ministers must send a copy of the certificate to the relevant person as soon as possible after receiving the notification or, as the case may be, the expiry of that period.
- (5) The Scottish Ministers must not send a copy of the certificate to the relevant person if the individual notifies the Scottish Ministers before the end of the period mentioned in section 116ZB(3)(a) that the individual intends to make an application under section 116ZB(2).
- (6) In this section, “relevant person” means—
- (a) in relation to a criminal record certificate issued under section 113A(1) or an enhanced criminal record certificate issued under section 113B(1), the person who countersigned the application for the certificate under section 113A(2) (a) or, as the case may be, 113B(2)(a),
  - (b) in relation to a criminal record certificate issued under section 114(1) or an enhanced criminal record certificate issued under section 116(1), the person who made the statement in relation to the certificate under section 114(2) or, as the case may be, 116(2).

#### Textual Amendments

**F247** Ss. 116ZA, 116ZB inserted (S.) (8.2.2016) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial \(No. 2\) Order 2015 \(S.S.I. 2015/423\)](#), arts. 1(2), **3(4)** (with arts. 5-10, 12)

### **116ZB Application for an order for a new criminal record certificate or enhanced criminal record certificate**

- (1) This section applies where—
- (a) the Scottish Ministers issue a criminal record certificate or an enhanced criminal record certificate to an individual, and
  - (b) the certificate includes details of a conviction for an offence listed in schedule 8B which is—
    - (i) a spent conviction, but
    - (ii) not a protected conviction.



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- (2) The individual may apply to the sheriff for an order requiring the Scottish Ministers to issue a new certificate that does not include those details.
- (3) An application under subsection (2)—
  - (a) may only be made if the individual, before the end of the period of 10 working days beginning with the date of the issue of the certificate, notifies the Scottish Ministers of an intention to make the application, and
  - (b) must be made before the end of the period of 3 months beginning with the date on which that notification is given.
- (4) No finding of fact on which a conviction is based may be challenged in an application under subsection (2).
- (5) Proceedings in an application under subsection (2) may take place in private if the sheriff considers it appropriate in all the circumstances.
- (6) In determining an application under subsection (2) the sheriff must—
  - (a) if satisfied that the details are not relevant to the purpose for which the certificate was required, allow the application,
  - (b) otherwise, refuse the application.
- (7) The sheriff may allow the application in part where it relates to details in relation to two or more convictions.
- (8) The decision of the sheriff on an application is final.
- (9) Where the sheriff allows the application, the sheriff must order the Scottish Ministers—
  - (a) to issue a new certificate to the individual as if the individual had made the application for the certificate under section 113A(1), 113B(1), 114(1) or, as the case may be, 116(1) on the date on which the sheriff makes the order,
  - (b) to exclude from that certificate the details which the sheriff is satisfied are not relevant.
- (10) Where the sheriff refuses the application—
  - (a) the Scottish Ministers must issue a new certificate to the individual as if the individual had made the application for the certificate under section 113A(1), 113B(1), 114(1) or, as the case may be, 116(1) on the date on which the sheriff makes the order,
  - (b) the individual may not make an application under subsection (2) in relation to the details of the conviction in connection with the new certificate (or any subsequent certificate issued in relation to the original certificate application).
- (11) In subsection (10)(b), the “original certificate application” is the application for the certificate mentioned in subsection (1)(a).
- (12) Sections 116ZA and 117 apply to a new certificate issued under subsection (9) or (10)
  - (a) as if the certificate had been issued under section 113A(1), 113B(1), 114(1) or, as the case may be, 116(1).]

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F247** Ss. 116ZA, 116ZB inserted (S.) (8.2.2016) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial \(No. 2\) Order 2015 \(S.S.I. 2015/423\)](#), arts. 1(2), **3(4)** (with arts. 5-10, 12)

### [<sup>F248</sup>116A] Up-dating certificates

- (1) [<sup>F249</sup>DBS] must, on the request of a relevant person and subject to subsection (2), give up-date information to that person about—
  - (a) a criminal conviction certificate,
  - (b) a criminal record certificate, or
  - (c) an enhanced criminal record certificate,
 which is subject to up-date arrangements.
- (2) [<sup>F250</sup>DBS] may impose conditions about—
  - (a) the information to be supplied in connection with such a request for the purpose of enabling the Secretary of State to decide whether the person is a relevant person,
  - (b) any other information to be supplied in connection with such a request.
- (3) For the purposes of subsection (1) a certificate is subject to up-date arrangements if condition A, B or C is met and the arrangements have not ceased to have effect in accordance with a notice given under section 118(3B).
- (4) Condition A is that—
  - (a) the individual who applied for the certificate made an application at the same time to [<sup>F251</sup>DBS] for the certificate to be subject to up-date arrangements,
  - (b) the individual has paid in the prescribed manner any prescribed fee,
  - (c) [<sup>F251</sup>DBS] has granted the application for the certificate to be subject to up-date arrangements, and
  - (d) the period of 12 months beginning with the date on which the grant comes into force has not expired.
- (5) Condition B is that—
  - (a) the individual whose certificate it is has made an application to [<sup>F252</sup>DBS] to renew or (as the case may be) further renew unexpired up-date arrangements in relation to the certificate,
  - (b) the individual has paid in the prescribed manner any prescribed fee,
  - (c) [<sup>F252</sup>DBS] has granted the application,
  - (d) the grant has come into force on the expiry of the previous up-date arrangements, and
  - (e) the period of 12 months beginning with the date on which the grant has come into force has not expired.
- (6) Condition C is that—
  - (a) the certificate was issued under section 117(2) or 117A(5)(b), and
  - (b) the certificate which it superseded—
    - (i) was subject to up-date arrangements immediately before it was superseded, and

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- (ii) would still be subject to those arrangements had it not been superseded.
- (7) [F253DBS] must not grant an application as mentioned in subsection (4)(c) or (5)(c) unless any fee prescribed under subsection (4)(b) or (as the case may be) (5)(b) has been paid in the manner so prescribed.
- (8) In this section “up-date information” means—
  - (a) in relation to a criminal conviction certificate or a criminal record certificate—
    - (i) information that there is no information recorded in central records which would be included in a new certificate but is not included in the current certificate, or
    - (ii) advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate,
  - (b) in relation to an enhanced criminal record certificate which includes suitability information relating to children or vulnerable adults—
    - (i) information that there is no information recorded in central records, no information of the kind mentioned in section 113B(4), and no information of the kind mentioned in section 113BA(2) or (as the case may be) 113BB(2), which would be included in a new certificate but is not included in the current certificate, or
    - (ii) advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate, and
  - (c) in relation to any other enhanced criminal record certificate—
    - (i) information that there is no information recorded in central records, nor any information of the kind mentioned in section 113B(4), which would be included in a new certificate but is not included in the current certificate, or
    - (ii) advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate.
- (9) If up-date information is given under subsection (8)(a)(i), (8)(b)(i) or (8)(c)(i) and the certificate to which that information relates is one to which subsection (10) applies, the up-date information must include that fact.
- (10) This subsection applies to a certificate which—
  - (a) in the case of a criminal conviction certificate, states that there are no convictions or conditional cautions of the applicant recorded in central records,
  - (b) in the case of a criminal record certificate, is as described in section 120AC(3), and
  - (c) in the case of an enhanced criminal record certificate, is as described in section 120AC(4).
- (11) In this section—
  - “central records” has the same meaning as in section 113A,
  - “criminal record certificate” includes a certificate under section 114,
  - “enhanced criminal record certificate” includes a certificate under section 116,
  - “exempted question” has the same meaning as in section 113A,
  - “relevant person” means—

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- (a) in relation to a criminal conviction certificate—
  - (i) the individual whose certificate it is, or
  - (ii) any person authorised by the individual,
- (b) in relation to a criminal record certificate—
  - (i) the individual whose certificate it is, or
  - (ii) any person who is authorised by the individual and is seeking the information for the purposes of an exempted question, and
- (c) in relation to an enhanced criminal record certificate—
  - (i) the individual whose certificate it is, or
  - (ii) any person who is authorised by the individual and is seeking the information for the purposes of an exempted question asked for a purpose prescribed under section 113B(2)(b).]

#### Textual Amendments

- F248** S. 116A inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 83, 120](#) (with s. 97); [S.I. 2013/1180, art. 2\(b\)](#)
- F249** Word in s. 116A(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(g\)](#) (with Pt. 4)
- F250** Word in s. 116A(2) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(g\)](#) (with Pt. 4)
- F251** Word in s. 116A(4) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(g\)](#) (with Pt. 4)
- F252** Word in s. 116A(5) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(g\)](#) (with Pt. 4)
- F253** Word in s. 116A(7) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(g\)](#) (with Pt. 4)

#### 117 Disputes about [<sup>F254</sup>accuracy of certificates][<sup>F254</sup>certificates and up-date information].

- (1) Where an applicant for a certificate under any of sections 112 to 116 believes that the information contained in the certificate is inaccurate he may make an application [<sup>F255</sup>in writing] to [<sup>F256</sup>the Secretary of State][<sup>F256</sup>DBS] for a new certificate.
- [<sup>F257</sup>(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 [<sup>F258</sup>DBS] for a decision as to whether or not the information is inaccurate.]
- [<sup>F259</sup>(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 Department for a decision as to whether or not the information is inaccurate.]

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[<sup>F260</sup>(1B) Where a person believes that the wrong up-date information has been given under section 116A in relation to the person's certificate, the person may make an application in writing to [<sup>F261</sup>DBS] for corrected up-date information.]

(2) [<sup>F262</sup>The Secretary of State][<sup>F262</sup>DBS] shall consider any application under this section; and where [<sup>F263</sup>he][<sup>F263</sup>it] is of the opinion that the information in the certificate is inaccurate [<sup>F264</sup>, or that the wrong up-date information has been given,][<sup>F263</sup>he][<sup>F263</sup>it] shall issue a new certificate [<sup>F265</sup>or (as the case may be) corrected up-date information].

[<sup>F266</sup>(2A) In this section—

“corrected up-date information”, in relation to a certificate, means information which includes—

(a) information that the wrong up-date information was given in relation to the certificate on a particular date, and

(b) new up-date information in relation to the certificate,

“up-date information” has the same meaning as in section 116A.]

[<sup>F267</sup>(3) An application under this section may, in particular, request a review of any information contained in a certificate by virtue of section 113B(4).

[<sup>F268</sup>(4) The Scottish Ministers, on receiving such a request, must ask the chief officer of the relevant police force who provided that information to reconsider whether—

(a) the chief officer still reasonably believes that information to be relevant for the purpose in respect of which it was requested, and

(b) in the chief officer's opinion, that information still ought to be included in the certificate.]]

[<sup>F269</sup>(5) This section does not apply to any information which could be the subject of an application under section 116ZB(2).]

#### Textual Amendments

**F254** Words in s. 117 title substituted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 108\(2\)](#) (with s. 97); S.I. 2013/1180, art. 2(e)(i)

**F255** Words in s. 117(1) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), ss. 79\(2\), 101\(2\)](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.

**F256** Words in s. 117(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(h\)](#) (with Pt. 4)

**F257** S. 117(1A) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 82\(4\), 120](#) (with s. 97); S.I. 2012/2234, art. 2(u)

**F258** Words in s. 117(1A) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(h\)](#) (with Pt. 4)

**F259** S. 117(1A) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), ss. 40\(4\), 106\(2\); S.R. 2015/358, art. 2\(e\)](#)

**F260** S. 117(1B) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 108\(3\)](#) (with s. 97); S.I. 2013/1180, art. 2(e)(i)

**F261** Words in s. 117(1B) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(h\)](#) (with Pt. 4)

**F262** Words in s. 117(2) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(h\)](#) (with Pt. 4)

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- F263** Word in s. 117(2) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **40** (with Pt. 4)
- F264** Words in s. 117(2) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 108(4)(a)** (with s. 97); S.I. 2013/1180, art. 2(e)(i)
- F265** Words in s. 117(2) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 108(4)(b)** (with s. 97); S.I. 2013/1180, art. 2(e)(i)
- F266** S. 117(2A) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 108(5)** (with s. 97); S.I. 2013/1180, art. 2(e)(i)
- F267** S. 117(3)(4) inserted (S.) (11.1.2008) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 33** (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F268** S. 117(4) substituted (S.) (8.2.2016) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015 (S.S.I. 2015/423), arts. 1(2), **3(5)(a)** (with arts. 5-10, 12)
- F269** S. 117(5) inserted (S.) (8.2.2016) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015 (S.S.I. 2015/423), arts. 1(2), **3(5)(b)** (with arts. 5-10, 12)

#### Commencement Information

- I12** S. 117 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**  
S. 117 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**
- I13** S. 117 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(i)**

#### <sup>F270</sup>117A Other disputes about section 113B(4) information **E+W**

- (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 [<sup>F271</sup>DBS] of that fact, and
  - (b) on being so informed, [<sup>F271</sup>DBS] must issue a new certificate.
- (6) In issuing such a certificate, [<sup>F272</sup>DBS] must proceed as if the information which falls within subsection (1)(a) or (b) had not been provided under section 113B(4).

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- (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.]

#### Extent Information

**E2** This version of this provision extends to England and Wales only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F270** S. 117A inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 82\(5\), 120](#) (with s. 97); S.I. 2012/2234, art. 2(u)
- F271** Words in s. 117A(5) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(i)** (with Pt. 4)
- F272** Words in s. 117A(6) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(i)** (with Pt. 4)

#### [<sup>F639</sup>117A] **Other disputes about section 113B(4) information** **N.I.**

- (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).
- (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 Department of that fact, and
  - (b) on being so informed, the Department must issue a new certificate.

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- (6) In issuing such a certificate, the Department 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.]

#### Extent Information

**E12** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F639** S. 117A inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), ss. 40\(5\), 106\(2\); S.R. 2015/358, art. 2\(e\)](#)

### <sup>F273</sup> 117B Review of criminal record certificates

Schedule 8A (which provides for an independent review of certain criminal record certificates) has effect.]

#### Textual Amendments

**F273** S. 117B inserted (N.I.) (1.3.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), ss. 41\(2\), 106\(2\); S.R. 2015/418, art. 3\(a\)](#)

### 118 Evidence of identity.

- (1) <sup>F274</sup>The Secretary of State<sup>F274</sup> [DBS] may refuse to issue a certificate under this Part, or to consider <sup>F275</sup>an application as mentioned in section 116A(4)(a) or (5)(a) or an application under section 117 <sup>F276</sup>[<sup>F276</sup>, 117A]<sup>F277</sup> or 120], unless the application is supported by such evidence of identity as <sup>F278</sup>he<sup>F278</sup> [it] may require.
- (2) In particular, <sup>F279</sup>the Secretary of State<sup>F279</sup> [DBS] may refuse to issue a certificate or consider an application unless the applicant—
- (a) has his fingerprints taken at such place and in such manner as may be prescribed, and
  - (b) pays the prescribed fee to such person as may be prescribed.
- <sup>F280</sup>(2A) For the purpose of verifying evidence of identity supplied in pursuance of subsection (1) <sup>F281</sup>the Secretary of State<sup>F281</sup> [DBS] may obtain such information as <sup>F282</sup>he<sup>F282</sup> [it] thinks is appropriate from data held—
- (a) by the <sup>F283</sup>United Kingdom Passport Agency<sup>F283</sup> [Identity and Passport Service];
  - (b) by the Driver and Vehicle Licensing Agency;
  - (c) by Driver and Vehicle Licensing Northern Ireland;



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- (d) by the Secretary of State in connection with keeping records of national insurance numbers;
- (e) by such other persons or for such purposes as is prescribed.]
- [<sup>F284</sup>(2B) The Scottish Ministers may require an applicant to have fingerprints taken under subsection (2) only if they are not satisfied by other evidence provided under subsection (1) as to the applicant's identity.]
- [<sup>F285</sup>(3) The Scottish Ministers must arrange the destruction of any fingerprints taken in pursuance of subsection (2) as soon as reasonably practicable after they have been used for the purpose mentioned in subsection (1).]
- [<sup>F286</sup>(3A) [<sup>F287</sup>DBS] by notice given in writing may require a person who has a certificate which is subject to up-date arrangements under section 116A to attend at a place and time specified in the notice to provide fingerprints for the sole purpose of enabling [<sup>F287</sup>DBS] to verify whether information in the possession of [<sup>F287</sup>DBS] that [<sup>F287</sup>DBS] considers may be relevant to the person's certificate does relate to that person.
- (3B) If a person fails to comply with a requirement imposed under subsection (3A), [<sup>F287</sup>DBS] by notice given in writing may inform that person that, from a date specified in the notice, the person's certificate is to cease to be subject to up-date arrangements.]
- (4) Regulations prescribing a fee for the purposes of subsection (2)(b) shall make provision for a refund in cases of an application under section 117 [<sup>F288</sup> or 117A] where a new certificate is issued.

#### Textual Amendments

- F274** Words in s. 118(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(j)** (with Pt. 4)
- F275** Words in s. 118(1) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 109(2)(a) (with s. 97); [S.I. 2013/1180](#), art. 2(e)(ii); and inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 7(2)(a)**; [S.R. 2015/358](#), art. 2(m)(ii)
- F276** Word in s. 118(1) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 109(2)(b) (with s. 97); [S.I. 2012/2234](#), art. 2(aa)(vii); and inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 7(2)(b)**; [S.R. 2015/358](#), art. 2(m)(ii)
- F277** Words in s. 118(1) inserted (1.7.2005 for S., 1.7.2005 for E.W., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 164(2)**, 178(4)(d)(8); [S.S.I. 2005/358](#), art. 2(c); [S.I. 2005/1521](#), art. 3(3)(a); [S.I. 2008/697](#), art. 2(b)
- F278** Word in s. 118(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **41(a)** (with Pt. 4)
- F279** Words in s. 118(2) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(j)** (with Pt. 4)
- F280** S. 118(2A) inserted (1.7.2005 for S., 1.7.2005 for E.W., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 164(3)**, 178(4)(d)(8); [S.S.I. 2005/358](#), art. 2(c); [S.I. 2005/1521](#), art. 3(3)(a); [S.I. 2008/697](#), art. 2(b)
- F281** Words in s. 118(2A) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(j)** (with Pt. 4)
- F282** Word in s. 118(2A) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **41(b)** (with Pt. 4)

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- F283** Words in s. 118(2A)(a) substituted (S.) (11.1.2008) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 34(a)** (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F284** S. 118(2B) inserted (S.) (11.1.2008) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 34(b)** (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F285** S. 118(3) substituted (S.) (11.1.2008) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 34(c)** (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F286** S. 118(3A)(3B) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 109(3)** (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F287** Word in s. 118(3A)(3B) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), 37(j) (with Pt. 4)
- F288** Words in s. 118(4) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 109(4) (with s. 97); S.I. 2012/2234, art. 2(aa)(vii); and inserted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 7(4)**; S.R. 2015/358, art. 2(m)(ii)

#### Commencement Information

- I14** S. 118 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**  
S. 118 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**
- I15** S. 118 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(j)**

## 119 Sources of information.

- (1) Any person who holds records of convictions [<sup>F289</sup>or cautions][<sup>F289</sup>, cautions or other information] for the use of police forces generally shall make those records available to [<sup>F290</sup>the Secretary of State][<sup>F290</sup>DBS][<sup>F291</sup> for the purposes of an application [<sup>F292</sup>(whether for a certificate or for registration)] under this Part.][<sup>F291</sup> for the purpose of enabling [<sup>F293</sup>him][<sup>F293</sup>it] to carry out [<sup>F294</sup>his functions under this Part in relation to—
- (b) the determination of whether a person should continue to be a registered person.]  
[<sup>F294</sup>a relevant function]]
- [<sup>F295</sup>(1ZA) Any person who holds records of convictions or cautions for the use of police forces generally must make those records available to the Disclosure and Barring Service for the purpose of enabling it to carry out its functions under paragraph 1, 2, 7 or 8 of Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.]
- [<sup>F296</sup>(1A) [<sup>F297</sup>The Secretary of State may require the [<sup>F298</sup>Disclosure and Barring Service] to make available specified information for the purpose of enabling the Secretary of State to carry out functions under this Part in relation to—
- (a) any application for a certificate or for registration;
- [<sup>F299</sup>(aa) the provision of up-date information under section 116A;] or
- (b) the determination of whether a person should continue to be a registered person.]]
- [<sup>F300</sup>(1B) [<sup>F301</sup>The Secretary of State][<sup>F301</sup>DBS] may require the chief officer of a police force to make available such information as [<sup>F302</sup>he][<sup>F302</sup>it] may specify for the purpose of [<sup>F303</sup>determining, in relation to applications under section 113B, whether the police force is a relevant police force][<sup>F303</sup>deciding whether to make a request to that chief officer under section 113B(4)].]

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- (2) Where the chief officer of a police force receives a request under section [F304 113B] or 116 F305 ... he shall comply with it as soon as practicable.
- [F306(2A) Where, in connection with the provision of up-date information under section 116A, the chief officer of a police force receives a request for information of the kind mentioned in section 113B(4), the chief officer of police must comply with it as soon as practicable.]
- (3) [F307The Secretary of State][F307DBS] shall pay to the appropriate [F308local policing body or] police authority, F309 ... [F310such fee as [F311he][F311the Secretary of State] thinks appropriate] for information provided in accordance with [F312subsection (2)][F312section 120A(4) or subsection (2) of this section].
- (4) Any person who holds records of fingerprints for the use of police forces generally shall make those records available to [F313the Secretary of State][F313DBS][F291for the purposes of an application under this Part.][F291for the purpose of enabling [F314him][F314it] to carry out [F315his][F315its] functions under this Part in relation to—
- (a) any application for a certificate or for registration;  
[ any application as mentioned in section 116A(4)(a) or (5)(a);] or  
F316(aa)
- (b) the determination of whether a person should continue to be a registered person.]
- [F317(4A) DBS may require the Secretary of State to provide it with the information and advice specified in section 113CD(2) to (6) for the purpose of enabling DBS to carry out its functions under section 113CD.]
- [F318(4A) The Department of Justice may provide to the Disclosure and Barring Service any information it holds for the purposes of this Part in order to enable the Disclosure and Barring Service to determine whether, in relation to any person, paragraph 1, 2, 3, 5, 7, 8, 9 or 11 of Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 applies or appears to apply.]
- (5) No proceedings shall lie against [F319the Secretary of State][F319DBS][F320or the Disclosure and Barring Service] by reason of an inaccuracy in the information made available or provided to [F321him][F321it][F322or it] in accordance with this section.
- [F323(6) For the purposes of this section references to a police force include any body mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.
- (7) In the case of such a body the reference in subsection (3) to the appropriate [F324local policing body or] police authority must be construed as a reference to such body as is prescribed.]
- [F325(8) In this section a relevant function is a function of [F326the Secretary of State][F326DBS]—
- (a) under this Part in relation to any application for a certificate or for registration;  
[ under this Part in relation to any request under section 116A(1);]  
F327(aa)
- (b) under this Part in relation to the determination of whether a person should continue to be a registered person;
- F328(c) .....

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- (d) [F<sup>329</sup>under paragraph 1, 2, 7 or 8 of Schedule 3 to [F<sup>330</sup>the Safeguarding Vulnerable Groups Act 2006] (considering whether criteria prescribed for the purpose of that paragraph apply to an individual).]]

### Textual Amendments

- F289** Words in s. 119(1) substituted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), ss. 78\(3\), 101\(2\)](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F290** Words in s. 119(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(k\)](#) (with Pt. 4)
- F291** Words in s. 119(1)(4) substituted (E.W.N.I.) (19.6.2001) by 2001 c. 16, s. 134(2)(a); S.I. 2001/2223, art. 2(1)(c)
- F292** Words in s. 119(1) inserted (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 70\(4\), 89\(2\)](#); S.S.I. 2003/288, art. 2, sch.
- F293** Word in s. 119(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 42\(a\)](#) (with Pt. 4)
- F294** Words in s. 119(1) substituted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), s. 65, Sch. 9 para. 14\(7\)\(a\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, [art. 2\(a\)](#) (with arts. 4-23); S.I. 2009/2611, art. 2, [Sch.](#)
- F295** S. 119(1ZA) inserted (N.I.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 52\(2\)](#) (with Pt. 4)
- F296** S. 119(1A) substituted (10.9.2012 for E.W.N.I.) by [Policing and Crime Act 2009 \(c. 26\), s. 116\(1\), Sch. 7 para. 118](#); S.I. 2012/2235, art. 2(c)
- F297** S. 119(1A) omitted (E.W.) (1.12.2012) by virtue of [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 50\(2\)](#) (with Pt. 4)
- F298** Words in s. 119(1A) substituted (N.I.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 13\(1\)\(2\)\(c\)](#) (with Pt. 4)
- F299** S. 119(1A)(aa) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 110\(2\)](#) (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F300** S. 119(1B) inserted (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), s. 65, Sch. 9 para. 14\(7\)\(b\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, [Sch.](#)
- F301** Words in s. 119(1B) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(k\)](#) (with Pt. 4)
- F302** Word in s. 119(1B) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 42\(b\)](#) (with Pt. 4)
- F303** Words in s. 119(1B) substituted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 110\(3\)](#) (with s. 97); S.I. 2012/2234, [art. 2\(aa\)\(viii\)](#); and substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 5 para. 8\(3\)](#); S.R. 2015/358, [art. 2\(m\)\(iii\)](#)
- F304** Word in s. 119(2) substituted (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(4\)\(e\)\(8\), Sch. 14 para. 4\(b\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c)
- F305** Words in s. 119(2) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 40\(2\), Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)

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- F306** S. 119(2A) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 110(4)** (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F307** Words in s. 119(3) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **37(k)** (with Pt. 4)
- F308** Words in s. 119(3) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 223**; S.I. 2011/3019, art. 3, Sch. 1
- F309** Words in s. 119 repealed (3.7.2000) by 1999 c. 29, ss. 325, 423, Sch. 27 para. 112, **Sch. 34 Pt. VII** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**
- F310** Words in s. 119(3) substituted (1.7.2005 for E.W., 1.4.2006 for S., 1.4.2008 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. **165(1)(a)**, 178(4)(d)(8); S.I. 2005/1521, art. 3(3)(b); S.S.I. 2006/166, art. 2(1)(c); S.I. 2008/697, art. 2(c)
- F311** Words in s. 119(3) substituted (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **42(c)** (with Pt. 4)
- F312** Words in s. 119(3) substituted (E.W.N.I.) (19.6.2001) by 2001 c. 16, s. 134(2)(c); S.I. 2001/2223, art. 2(1)(c)
- F313** Words in s. 119(4) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **37(k)** (with Pt. 4)
- F314** Word in s. 119(4) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **42(d)(i)** (with Pt. 4)
- F315** Word in s. 119(4) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **42(d)(ii)** (with Pt. 4)
- F316** S. 119(4)(aa) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 110(5)** (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F317** S. 119(4A) inserted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **50(3)** (with Pt. 4)
- F318** S. 119(4A) inserted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), ss. **45**, 106(2); S.R. 2015/358, art. 2(g)
- F319** Words in s. 119(5) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **37(k)** (with Pt. 4)
- F320** Words in s. 119(5) inserted (N.I.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **52(3)(a)** (with Pt. 4)
- F321** Word in s. 119(5) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **42(e)** (with Pt. 4)
- F322** Words in s. 119(5) inserted (N.I.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **52(3)(b)** (with Pt. 4)
- F323** S. 119(6)(7) inserted (1.4.2006 for S., 6.4.2006 for E.W., 1.4.2008 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. **165(1)(b)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(d); S.I. 2008/697, art. 2(c)
- F324** Words in s. 119(7) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 223**; S.I. 2011/3019, art. 3, Sch. 1
- F325** S. 119(8) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 9 para. 14(7)(d)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.
- F326** Words in s. 119(8) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **37(k)** (with Pt. 4)
- F327** S. 119(8)(aa) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 110(6)** (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F328** S. 119(8)(c) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by

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Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 40(3)(a), **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)

**F329** S. 119(8)(d) omitted (N.I.) (1.12.2012) by virtue of **The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012** (S.I. 2012/3006), arts. 1(1), **52(4)** (with Pt. 4)

**F330** Words in s. 119(8)(d) substituted (E.W.N.I.) (10.9.2012 immediately after the coming into force of the **Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012** (S.I. 2012/2157)) by **Protection of Freedoms Act 2012** (c. 9), s. 120, Sch. 9 para. 40(3)(b), **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)

#### Modifications etc. (not altering text)

**C33** S. 119 modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by **Safeguarding Vulnerable Groups (Regulated Activity, Transitional Provisions and Commencement No. 4) Order (Northern Ireland) 2009** (S.R. 2009/304), **art. 8**

#### Commencement Information

**I16** S. 119 in force at 1.3.2002 for E.W. by **S.I. 2002/413**, **art. 2**

S. 119 in force at 25.4.2002 for S. by **S.S.I. 2002/124**, **art. 4**

**I17** S. 119 in force at 1.4.2008 for N.I. by **S.I. 2008/692**, **art. 2(k)**

#### [<sup>F331</sup>119A] Further sources of information: Scotland

- (1) Any person who holds, in Scotland, records of convictions [<sup>F332</sup>or other information] for the use of police forces generally shall make those records available to the Scottish Ministers for the purpose of enabling them to carry out their functions under this Part in relation to the determination of whether a person should continue to be a person registered under section 120.
- (2) Where a person holds records of convictions [<sup>F333</sup>, cautions or other information] for the use of police forces generally (but is not required by subsection (1) or section 119(1) to make those records available to the Scottish Ministers) the Scottish Ministers may request that person to make those records available to them <sup>F334</sup>... .
- (3) In subsection (1), “person” does not include—
  - (a) a public body; or
  - (b) a holder of a public office,
 unless that person is a Scottish public authority (as defined in section 126(1) of the Scotland Act 1998 (c. 46)).
- (4) This section is without prejudice to section 119; and subsection (5) of that section shall apply in relation to records made available in accordance with this section as it does in relation to information made available in accordance with that section.]

#### Textual Amendments

**F331** S. 119A inserted (S.) (1.4.2006) by **Criminal Justice (Scotland) Act 2003** (asp 7), **ss. 70(5)**, 89(2); **S.S.I. 2006/168**, **art. 2**

**F332** Words in s. 119A(1) inserted (S.) (28.2.2011) by **Protection of Vulnerable Groups (Scotland) Act 2007** (asp 14), **ss. 78(4)(a)**, 101(2) (with ss. 90, 99); **S.S.I. 2011/157**, art. 2(a) (with art. 3)

**F333** Words in s. 119A(2) substituted (S.) (28.2.2011) by **Protection of Vulnerable Groups (Scotland) Act 2007** (asp 14), **ss. 78(4)(b)**, 101(2) (with ss. 90, 99); **S.S.I. 2011/157**, art. 2(a) (with art. 3)

**F334** Words in s. 119A(2) repealed (S.) (28.2.2011) by **Protection of Vulnerable Groups (Scotland) Act 2007** (asp 14), s. 101(2), **sch. 4 para. 35** (with ss. 90, 99); **S.S.I. 2011/157**, art. 2(a) (with art. 3)

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<sup>F335</sup>**119B Independent monitor**

- (1) There is to be an independent monitor for the purposes of this Part.
- (2) The independent monitor is a person appointed by the Secretary of State—
  - (a) for such period, not exceeding three years, as the Secretary of State decides;
  - (b) on such terms as the Secretary of State decides.
- (3) A person may be appointed for a further period or periods.
- (4) The Secretary of State may terminate the appointment of the independent monitor before the end of the period mentioned in subsection (2)(a) by giving the monitor notice of the termination not less than three months before it is to take effect.

<sup>F336</sup>(4A) [ Before appointing a person to be the independent monitor, or terminating the appointment of the independent monitor, the Secretary of State must consult the Department of Justice in Northern Ireland.]

- (5) The independent monitor must review—
  - <sup>F337</sup>(a) .....
  - (b) a sample of cases in which a certificate issued under section 113B has included information in pursuance of subsection (4)(b) of that section;
  - (c) a sample of cases in which the chief officer of a police force has decided that information must not be included in a certificate or report in pursuance of section 113B(4)(b) <sup>F338</sup>or disclosed in pursuance of section 113B(5)(c) and (6)(b);
  - <sup>F339</sup>(ca) [ a sample of cases in which the chief officer of a police force has decided that information should be disclosed or not disclosed to <sup>F340</sup>DBS] for the purpose of the provision by <sup>F340</sup>DBS] of up-date information under section 116A.]
  - <sup>F341</sup>(d) .....
  - <sup>F341</sup>(e) .....
- (6) The purpose of a review under subsection (5) is to ensure compliance with Article 8 of the European Convention of Human Rights.
- (7) The independent monitor must in relation to each year make a report to the Secretary of State about the performance of police forces in exercising their functions under this Part.
- (8) The independent monitor may make recommendations to the Secretary of State as to—
  - (a) any guidance issued by the Secretary of State or which the monitor thinks it would be appropriate for the Secretary of State to issue;
  - (b) any changes to any enactment which the monitor thinks may be appropriate.

<sup>F342</sup>(8A) [ The independent monitor has the functions conferred on the monitor by section 117A.]

<sup>F343</sup>(8A) [ The independent monitor has the functions conferred on the monitor by section 117A.]

- (9) The chief officer of a police force must provide to the independent monitor such information as the monitor reasonably requires in connection with the exercise of his functions under this section <sup>F344</sup>or section 117A.]

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*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F335** S. 119B inserted (E.W.N.I.) (20.1.2009) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), **ss. 28, 65** (with **ss. 51, 57(3), 60(4), 64(5)**); S.I. 2009/39, art. 2(1)(c)
- F336** S. 119B(4A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 37(2)** (with arts. 28-31)
- F337** S. 119B(5)(a) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 111(2), Sch. 10 Pt. 6 (with s. 97); S.I. 2012/2234, art. 2(aa)(cc)(ix); and repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), Sch. 5 para. 9(2), **Sch. 9 Pt. 3**; S.R. 2015/358, art. 2(m)(iv)
- F338** Words in s. 119B(5)(c) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 111(3), **Sch. 10 Pt. 6** (with s. 97); S.I. 2012/2234, art. 2(aa)(cc)(ix)
- F339** S. 119B(5)(ca) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 111(4)** (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F340** Word in s. 119B(5)(ca) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), 37(1) (with Pt. 4)
- F341** S. 119B(5)(d)(e) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 41, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F342** S. 119B(8A) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 111(5)** (with s. 97); S.I. 2012/2234, art. 2(aa)(ix)
- F343** S. 119B(8A) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 9(5)**; S.R. 2015/358, art. 2(m)(iv)
- F344** Words in s. 119B(9) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 111(6) (with s. 97); S.I. 2012/2234, art. 2(aa)(ix); and inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 9(6)**; S.R. 2015/358, art. 2(m)(iv)

## 120 Registered persons. **E+W**

(1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by [<sup>F345</sup>DBS] for the purposes of this Part.

[<sup>F346</sup>(2) [<sup>F347</sup>DBS] shall include in the register any person who—

- (a) applies to [<sup>F348</sup>it] in writing to be registered, [<sup>F349</sup>and]
- (b) satisfies the conditions in subsections (4) to (6), <sup>F350</sup> ...
- <sup>F350</sup>(c) ...]

[<sup>F351</sup>(2A) Subsection (2) is subject to—

- (a) regulations under section 120ZA,
- (b) section 120A, and
- (c) section 120AA and regulations made under that section.]

<sup>F352</sup>(3) .....



*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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- (4) A person applying for registration under this section must be—
- (a) a body corporate or unincorporate,
  - (b) a person [<sup>F353</sup>who is] appointed to an office by virtue of any enactment [<sup>F354</sup>and who, in the case of an individual, is aged 18 or over], or
  - (c) an individual [<sup>F355</sup>aged 18 or over] who employs others in the course of a business.
- (5) A body applying for registration under this section must satisfy [<sup>F356</sup>DBS] that it—
- (a) is likely to ask exempted questions, or
  - (b) is likely to [<sup>F357</sup>act as the registered person in relation to] applications under section [<sup>F358</sup>113A or 113B] at the request of bodies or individuals asking exempted questions.
- (6) A person, other than a body, applying for registration under this section must satisfy [<sup>F359</sup>DBS] that he is likely to ask exempted questions.
- (7) In this section “exempted question” has the same meaning as in section [<sup>F360</sup>113A].

#### Extent Information

- E3** This version of this provision extends to England and Wales only; separate versions have been created for Scotland and Northern Ireland only

#### Textual Amendments

- F345** Words in s. 120(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(m)** (with Pt. 4)
- F346** S. 120(2) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 35 para. 6(2)**; S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F347** Words in s. 120(2) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(m)** (with Pt. 4)
- F348** Word in s. 120(2)(a) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **43** (with Pt. 4)
- F349** Word in s. 120(2)(a) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 112(2)(b)** (with s. 97); S.I. 2012/2234, art. 2(aa)(x)
- F350** S. 120(2)(c) and word repealed (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 112(2)(c)**, **Sch. 10 Pt. 6** (with s. 97); S.I. 2012/2234, art. 2(aa)(cc)(x)
- F351** S. 120(2A) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 112(3)** (with s. 97); S.I. 2012/2234, art. 2(aa)(x)
- F352** S. 120(3) repealed (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 35 para. 6(3)**, **Sch. 37 Pt. 11**; S.I. 2004/81, art. 4(1)(2)(p); S.I. 2007/3340, art. 2(b)
- F353** Words in s. 120(4)(b) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 80(2)(a)(i)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F354** Words in s. 120(4)(b) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by

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Protection of Freedoms Act 2012 (c. 9), **ss. 80(2)(a)(ii)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)

- F355** Words in s. 120(4)(c) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), **ss. 80(2)(b)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F356** Words in s. 120(5) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **37(m)** (with Pt. 4)
- F357** Words in s. 120(5)(b) substituted (E.W.) (2.3.2009) by The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I. 2009/203), arts. 1(1), **5**
- F358** Words in s. 120(5)(b) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 6(b)**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F359** Words in s. 120(6) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **37(m)** (with Pt. 4)
- F360** Word in s. 120(7) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 6(c)**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

#### Commencement Information

- I18** S. 120(3) in force for E.W. at 19.3.2001 and s. 120(1)(2)(4)-(7) in force for E.W. at 1.5.2001 by S.I. 2001/1097, **art. 2**  
S. 120(3) in force for S. at 1.1.2002 and s. 120(1)(2)(4)-(7) in force for S. at 1.2.2002 by S.S.I. 2001/482, **art. 2**

#### [<sup>F452</sup>120 Registered persons. **S**

- (1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by the Secretary of State for the purposes of this Part.
- (2) Subject to [<sup>F640</sup>section 120A and] regulations under subsection (3), the Secretary of State shall include in the register any person who applies to him <sup>F641</sup>... to be registered and satisfies the conditions in subsections (4) to (6).
- (3) The Secretary of State may make regulations about the maintenance of the register; and regulations may, in particular, provide for—
  - (a) the information to be included in the register,
    - [ the nomination by—
    - <sup>F642</sup>(aa) (i) a body corporate or unincorporate; or
    - (ii) a person appointed to an office by virtue of an enactment, whether that body or person is registered or applying to be registered, of an individual to act for it or, as the case may be, him in relation to the countersigning of applications under this Part;
  - (ab) the refusal by the Scottish Ministers, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept any nomination made by virtue of this subsection;
  - (ac) as to the period which must elapse before any person refused registration or removed from the register may apply to be included in the register;]
  - (b) the removal from the register of persons who are, in the opinion of the Secretary of State, no longer likely to wish to countersign applications under section [<sup>F643</sup>113A or 113B], and

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- (c) the payment of fees.
- (4) A person applying for registration under this section must be—
- (a) a body corporate or unincorporate,
  - (b) a person appointed to an office by virtue of any enactment, or
  - (c) an individual who employs others in the course of a business.
- (5) A body applying for registration under this section must satisfy the Secretary of State that it—
- (a) is likely to ask exempted questions, or
  - (b) is likely to countersign applications under section [F358 113A or 113B] at the request of bodies or individuals asking exempted questions.
- (6) A person, other than a body, applying for registration under this section must satisfy the Secretary of State that he is likely to ask exempted questions.
- (7) In this section “exempted question” has the same meaning as in section [F360 113A].]

#### Extent Information

- E13** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

#### Textual Amendments

- F358** Words in s. 120(5)(b) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(b\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F360** Word in s. 120(7) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(c\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F452** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 70\(8\)](#), 89(2); S.S.I. 2006/168, art. 2
- F640** Words in s. 120(2) inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 70\(6\)\(a\)](#), 89(2); S.S.I. 2006/168, art. 2
- F641** Words in s. 120(2) repealed (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 79\(2\)](#), 101(2) (with [ss. 90](#), 99); S.S.I. 2007/564, art. 2, sch.
- F642** S. 120(3)(aa)-(ac) inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 70\(6\)\(b\)](#), 89(2); S.S.I. 2006/168, art. 2
- F643** Words in s. 120(3)(b) substituted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2007/3341, art. 2(d)

#### Commencement Information

- I57** S. 120(3) in force at 19.3.2001 for E.W. and s. 120(1)(2)(4)-(7) in force at 1.5.2001 for E.W. by [S.I. 2001/1097](#), [art. 2](#)  
S. 120(3) in force at 1.1.2002 for S. and s. 120(1)(2)(4)-(7) in force at 1.2.2002 for S. by [S.S.I. 2001/482](#), [art. 2](#)

## 120 Registered persons. **N.I.**

- (1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by the Secretary of State for the purposes of this Part.

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[<sup>F346</sup>(2) [<sup>F644</sup>The ] Secretary of State shall include in the register any person who—

- (a) applies to him in writing to be registered, [<sup>F645</sup> and ]
- (b) satisfies the conditions in subsections (4) to (6), <sup>F646</sup> ...
- <sup>F646</sup>(c) ...]

[<sup>F647</sup>(2A) Subsection (2) is subject to—

- (a) regulations under section 120ZA,
- (b) section 120A, and
- (c) section 120AA and regulations made under that section.]

<sup>F352</sup>( 3 ) . . . . .

(4) A person applying for registration under this section must be—

- (a) a body corporate or unincorporate,
- (b) a person appointed to an office by virtue of any enactment, or
- (c) an individual who employs others in the course of a business.

[<sup>F648</sup>(4A) An individual under the age of 18 applying for registration under subsection (4)(b) or (c) must satisfy the Department that there is good reason for being registered.]

(5) A body applying for registration under this section must satisfy the Secretary of State that it—

- (a) is likely to ask exempted questions, or
- (b) is likely to [<sup>F649</sup> act as the registered person in relation to ] applications under section [<sup>F358</sup> 113A or 113B ] at the request of bodies or individuals asking exempted questions.

(6) A person, other than a body, applying for registration under this section must satisfy the Secretary of State that he is likely to ask exempted questions.

(7) In this section “ exempted question ” has the same meaning as in section [<sup>F360</sup>113A] .

#### Extent Information

**E14** This version of this provision extends to Northern Ireland only; separate versions have been created for England and Wales and Scotland only

#### Textual Amendments

**F346** S. 120(2) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 6\(2\)](#); S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)

**F352** S. 120(3) repealed (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 6\(3\)](#), [Sch. 37 Pt. 11](#); S.I. 2004/81, art. 4(1)(2)(p); S.I. 2007/3340, art. 2(b)

**F358** Words in s. 120(5)(b) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(b\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

**F360** Word in s. 120(7) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(c\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

**F644** Word in s. 120(2) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 10\(2\)\(a\)](#); S.R. 2015/358, art. 2(m)(i)

**F645** Word in s. 120(2)(a) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 10\(2\)\(b\)](#); S.R. 2015/358, art. 2(m)(i)

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*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F646** S. 120(2)(c) and word repealed (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 5 para. 10(2)(c), Sch. 9 Pt. 3; S.R. 2015/358, art. 2(m)(i)
- F647** S. 120(2A) inserted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 5 para. 10(3); S.R. 2015/358, art. 2(m)(i)
- F648** S. 120(4A) inserted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 38(2), 106(2); S.R. 2015/358, art. 2(c)
- F649** Words in s. 120(5)(b) substituted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 5 para. 10(4); S.R. 2015/358, art. 2(m)(i)

#### Commencement Information

- I58** S. 120 in force at 3.12.2007 for N.I. by S.I. 2007/3342, art. 2(a)

### [<sup>F361</sup>120ZA] Regulations about registration

- (1) The Secretary of State may by regulations make further provision about registration.
- (2) Regulations under this section may in particular make provision for—
  - (a) the payment of fees,
  - (b) the information to be included in the register,
  - (c) the registration of any person to be subject to conditions,
  - (d) the nomination by—
    - (i) a body corporate or unincorporate, or
    - (ii) a person appointed to an office by virtue of any enactment, of the individuals authorised to act for it or, as the case may be, him in relation to the countersigning of applications under this Part [<sup>F362</sup>or the transmitting of applications under section 113A(2A) or 113B(2A)], and
  - (e) the refusal by [<sup>F363</sup>the Secretary of State][<sup>F363</sup>DBS], on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept the nomination of a person as so authorised.
- (3) The provision which may be made by virtue of subsection (2)(c) includes provision—
  - (a) for the registration or continued registration of any person to be subject to prescribed conditions or, if the regulations so provide, such conditions as [<sup>F364</sup>the Secretary of State][<sup>F364</sup>DBS] thinks fit, and
  - (b) for [<sup>F364</sup>the Secretary of State][<sup>F364</sup>DBS] to vary or revoke those conditions.
- (4) The conditions imposed by virtue of subsection (2)(c) may in particular include conditions—
  - (a) requiring a registered person, before [<sup>F365</sup>acting as the registered person in relation to] an application at an individual's request, to verify the identity of that individual in the prescribed manner,
  - (b) requiring an application under section [<sup>F366</sup>113A or 113B] to be transmitted by electronic means to [<sup>F367</sup>the Secretary of State][<sup>F367</sup>DBS] by the [<sup>F368</sup>person who acts as the registered person in relation to the application], and
  - (c) requiring a registered person to comply with any code of practice for the time being in force under section 122.]

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### Textual Amendments

- F361** S. 120ZA inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 7](#); [S.I. 2004/81](#), art. 4(1)(2)(o)(i); [S.I. 2007/3340](#), art. 2(b)
- F362** Words in s. 120ZA(2)(d) inserted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), 6(2); and inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 11\(2\)](#); [S.R. 2015/358](#), art. 2(m)(i)
- F363** Words in s. 120ZA(2) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), [37\(n\)](#) (with Pt. 4)
- F364** Words in s. 120ZA(3) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), [37\(n\)](#) (with Pt. 4)
- F365** Words in s. 120ZA(4)(a) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), 6(3)(a); and substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 11\(3\)\(a\)](#); [S.R. 2015/358](#), art. 2(m)(i)
- F366** Words in s. 120ZA(4)(b) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 7](#); [S.I. 2006/166](#), art. 2(1)(e); [S.I. 2006/378](#), art. 7(c); [S.I. 2007/3341](#), art. 2(d)
- F367** Words in s. 120ZA(4) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), [37\(n\)](#) (with Pt. 4)
- F368** Words in s. 120ZA(4)(b) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), 6(3)(b); and substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 11\(3\)\(b\)](#); [S.R. 2015/358](#), art. 2(m)(i)

### Commencement Information

- I19** S. 120ZA in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(b\)](#)

### <sup>F369</sup>120ZE Regulations about registration

- (1) The Scottish Ministers may by regulations make further provision about registration.
- (2) Regulations under this section may in particular make provision for—
- (a) the payment of fees;
  - (b) the information to be included in the register;
  - (c) the registration of any person to be subject to conditions;
  - (d) the nomination by—
    - (i) a body corporate or unincorporated; or
    - (ii) a person appointed to an office by virtue of an enactment, whether that body or person is registered or applying to be registered, of an individual to act for the body or, as the case may be, person in relation to disclosure applications;
  - (e) the refusal by the Scottish Ministers, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept any nomination made by virtue of this section;

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (f) the refusal by the Scottish Ministers to include persons who, in the opinion of the Scottish Ministers, are likely to act in relation to fewer disclosure applications in any period of 12 months than a minimum number specified in the regulations;
- (g) the removal from the register of persons who have, in any period of 12 months during which they were registered, acted in relation to fewer disclosure applications than the minimum number specified under paragraph (f);
- (h) the removal from the register of persons who are, in the opinion of the Scottish Ministers, no longer likely to wish to act in relation to disclosure applications;
- (i) the removal from the register of any person who has breached any condition of the person's registration; and
- (j) the period which must elapse before any person refused registration or removed from the register may apply to be included in the register.

[ The provision which may be made by virtue of subsection (2)(a) includes in particular <sup>F370</sup>(2A) provision for—

- (a) the payment of fees in respect of applications to be listed in the register,
- (b) the payment of different fees in different circumstances,
- (c) annual or other recurring fees to be paid in respect of registration, and
- (d) such annual or other recurring fees to be paid in advance or in arrears.

(2B) Where provision is made under subsection (2)(a) for a fee to be charged in respect of an application to be listed in the register, the Scottish Ministers need not consider the application unless the fee is paid.]

(3) The provision which may be made by virtue of subsection (2)(c) includes provision—

- (a) for the registration or continued registration of any person to be subject to prescribed conditions or, if the regulations so provide, such conditions as the Scottish Ministers think fit; and
- (b) for the Scottish Ministers to vary or revoke those conditions.

(4) In subsection (2), references to acting in relation to disclosure applications are to be read as references to—

- (a) countersigning applications under section 113A or 113B; or
- (b) making declarations in relation to requests for disclosures under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14).]

#### Textual Amendments

**F369** S. 120ZB inserted (S.) (12.10.2010) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 81\(2\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); S.S.I. 2010/344, art. 2(a)(iv)

**F370** S. 120ZB(2A)(2B) inserted (S.) (12.10.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 108\(4\)](#), [206\(1\)](#); S.S.I. 2010/344, art. 2(b)(ii)

[<sup>F371</sup>120A Refusal and cancellation of registration [<sup>F372</sup>on grounds related to disclosure] **E**

**+W**

- (1) [<sup>F373</sup>DBS] may refuse to include a person in the register maintained for the purposes of this Part if it appears to [<sup>F374</sup>it] that the registration of that person is likely to make it possible for information to become available to an individual who, in [<sup>F373</sup>DBS's] opinion, is not a suitable person to have access to that information.

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) [F375DBS] may remove a person from the register if it appears to [F375DBS]—
  - (a) that the registration of that person is likely to make it possible for information to become available to an individual who, in [F375DBS's] opinion, is not a suitable person to have access to that information; or
  - (b) that the registration of that person has resulted in information becoming known to such an individual.

- (3) In determining for the purposes of this section whether an individual is a suitable person to have access to any information, [F376DBS] may have regard, in particular, to—
  - (a) any information relating to that person which concerns a relevant matter;
  - [F377(b) any information relating to the person of a kind specified in subsection (3A);]
  - (c) any information provided to [F376DBS] under subsection (4).

[ The information is—

- F378(3A) (a) whether the person is barred from regulated activity;
- F379(b) .....
- F379(c) .....
- (d) whether the person is subject to a direction under section 167A of the Education Act 2002 (prohibition on participation in management of independent school).

F380(3B) .....

F380(3C) .....

(3D) Expressions used in [F381subsection (3A)] and in the Safeguarding Vulnerable Groups Act 2006 have the same meaning in [F382that subsection] as in that Act F383 ....]

- (4) It shall be the duty of the chief officer of any police force to comply, as soon as practicable after receiving it, with any request by [F384DBS] to provide [F384DBS] with information which—
  - (a) is available to the chief officer;
  - (b) relates to—
    - (i) an applicant for registration;
    - (ii) a registered person; or
    - (iii) an individual who is likely to have access to information in consequence of [F385a particular applicant for registration, or a particular registered person, acting as the registered person in relation to applications under this Part];

and

- (c) concerns a matter which [F384DBS] has notified to the chief officer to be a matter which, in the opinion of [F384DBS], is relevant to the determination of the suitability of individuals for having access to the information that may be provided in consequence of [F386a person acting as the registered person in relation to] applications under this Part.

(5) In this section “relevant matter” has the same meaning as in section [F387 113A].

[ For the purposes of this section references to a police force include any body

F388(6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.]



*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[ The Secretary of State may by order made by statutory instrument amend<sup>F389</sup>(7) subsection (3A) for the purpose of altering the information specified in that subsection.

(8) Such an order is subject to annulment in pursuance of a resolution of either House of Parliament.]]

### Extent Information

**E4** This version of this provision extends to England and Wales only; separate versions have been created for Scotland and Northern Ireland only

### Textual Amendments

- F371** S. 120A inserted (E.W.N.I.) (19.6.2001) by 2001 c. 16, s. 134(1); S.I. 2001/2223, art. 2(1)(c)
- F372** Words in s. 120A inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 35 para. 8; S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F373** Words in s. 120A(1) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), 37(o) (with Pt. 4)
- F374** Word in s. 120A(1) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), 44 (with Pt. 4)
- F375** Words in s. 120A(2) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), 37(o) (with Pt. 4)
- F376** Words in s. 120A(3) substituted (E.W.) (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), 37(o) (with Pt. 4)
- F377** S. 120A(3)(b) substituted (10.9.2012 for E.W.N.I.) by Policing and Crime Act 2009 (c. 26), ss. 96(2), 116(1); S.I. 2012/2235, art. 2(a)
- F378** S. 120A(3A)-(3D) inserted (10.9.2012 for E.W.N.I.) by Policing and Crime Act 2009 (c. 26), ss. 96(3), 116(1); S.I. 2012/2235, art. 2(a)
- F379** S. 120A(3A)(b)(c) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(2), Sch. 10 Pt. 5 (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F380** S. 120A(3B)(3C) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(3), Sch. 10 Pt. 5 (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F381** Words in s. 120A(3D) substituted (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(4)(a) (with s. 97); S.I. 2012/2234, art. 2(aa)(i)
- F382** Words in s. 120A(3D) substituted (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(4)(b) (with s. 97); S.I. 2012/2234, art. 2(aa)(i)
- F383** Words in s. 120A(3D) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(4)(c), Sch. 10 Pt. 5 (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)

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*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F384** Words in s. 120A(4) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(o)** (with Pt. 4)
- F385** Words in s. 120A(4)(b)(iii) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **7(a)**
- F386** Words in s. 120A(4)(c) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **7(b)**
- F387** Word in s. 120A(5) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 8(b)**; S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F388** S. 120A(6) inserted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. **165(2)**, 178(4)(d)(8); S.S.I. 2006/166, **art. 2(1)(c)**; S.I. 2006/378, **art. 7(d)**; S.I. 2007/3341, **art. 2(b)**
- F389** S. 120A(7)(8) inserted (10.9.2012 for E.W.N.I.) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. **96(4)**, 116(1); S.I. 2012/2235, art. 2(a)

#### Modifications etc. (not altering text)

- C34** S. 120A modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 9**
- C35** S. 120A(3) applied (13.8.2001) by S.I. 2001/1194, reg. 3A(4) (as inserted by S.I. 2001/2498, reg. 2(3))

#### Commencement Information

- I20** S. 120A in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(c)**

### <sup>F452</sup> <sub>F650</sub> **120A** Refusal and cancellation of registration: Scotland **S**

- (1) The Scottish Ministers may refuse to include a person in, or may remove a person from, a register maintained under section 120 for the purposes of this Part if it appears to them that the registration of that person is likely to make it possible for information to become available to an individual who, in their opinion, is not a suitable person to have access to that information.
- (2) The Scottish Ministers may also remove a person from any such register if it appears to them that the registration of that person has resulted in information becoming known to such an individual.
- (3) In determining, for the purposes of this section, whether an individual is a suitable person to have access to information, the Scottish Ministers may have regard, in particular, to—
- (a) any information relating to the individual which concerns a relevant matter (“relevant matter” having the same meaning as in section <sup>F651</sup>113A);
  - (b) whether that person is included in any list mentioned in section <sup>F652</sup>113C(3) or 113D(3);
  - (c) any information provided to them under subsection (4);
  - (d) any information provided to them by the chief officer of a police force in England and Wales or Northern Ireland in response to a request by them for such information as is available to that officer, relates to any such matter as is mentioned in paragraph (b) of subsection (4) and concerns such matter as is mentioned in paragraph (c) of that subsection;
  - (e) anything which has been done—
    - (i) under subsection (1) or (2) or section 122(3); or

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- (ii) in England and Wales or Northern Ireland under the provisions of this Act which apply in England and Wales or Northern Ireland and correspond to subsection (1) or (2),  
and any information on the basis of which that thing was done.
- (4) A chief constable of a police force in Scotland shall comply, as soon as practicable after receiving it, with any request by the Scottish Ministers to provide them with information which—
- (a) is available to him;
  - (b) relates to—
    - (i) an applicant for registration under section 120;
    - (ii) a person so registered;
    - (iii) an individual who is likely to have access to information in consequence of the countersigning of applications by a particular applicant for such registration or by a particular person so registered; and
  - (c) concerns a matter which they have notified the chief constable is a matter which in their opinion is relevant to the determination of the suitability of individuals for having access to information which may be provided by virtue of this Part.
- (5) The Scottish Ministers shall pay to a police authority [<sup>F653</sup>such fee as they consider appropriate].
- [ For the purposes of this section references to a police force include any body  
<sup>F654</sup>(6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.]
- [ In the case of such a body the reference in subsection (5) to a police authority must be  
<sup>F655</sup>(7) construed as a reference to such body as is prescribed.]]]

#### Extent Information

**E15** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F452** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2

**F650** S. 120A inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(2)**, 89(2); S.S.I. 2006/168, art. 2

**F651** Word in s. 120A(3)(a) substituted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 9(a)**; S.S.I. 2006/166, art. 2(1)(e)

**F652** Words in s. 120A(3)(b) substituted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 9(b)**; S.S.I. 2006/166, art. 2(1)(e)

**F653** Words in s. 120A(5) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 166(1)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c)

**F654** S. 120A(6) inserted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 165(2)**, 178(4)(d)(8); S.S.I. 2006/166, **art. 2(1)(c)**; S.I. 2006/378, **art. 7(d)**; S.I. 2007/3341, **art. 2(b)**

**F655** S. 120A(7) inserted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 9(c)**; S.S.I. 2006/166, art. 2(1)(e)

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*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Modifications etc. (not altering text)**

C37 S. 120A modified (temp.) (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\)](#), arts. 1(1), 8

[<sup>F371</sup>120A] **Refusal and cancellation of registration [<sup>F372</sup>on grounds related to disclosure] **N.I.****

- (1) The Secretary of State may refuse to include a person in the register maintained for the purposes of this Part if it appears to him that the registration of that person is likely to make it possible for information to become available to an individual who, in The Secretary of State's opinion, is not a suitable person to have access to that information.
- (2) The Secretary of State may remove a person from the register if it appears to the Secretary of State—
  - (a) that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State's opinion, is not a suitable person to have access to that information; or
  - (b) that the registration of that person has resulted in information becoming known to such an individual.
- (3) In determining for the purposes of this section whether an individual is a suitable person to have access to any information, the Secretary of State may have regard, in particular, to—
  - (a) any information relating to that person which concerns a relevant matter;
  - [<sup>F377</sup>(b) any information relating to the person of a kind specified in subsection (3A);]
  - (c) any information provided to the Secretary of State under subsection (4).

[ The information is—

- <sup>F378</sup>(3A) (a) whether the person is barred from regulated activity;
- <sup>F379</sup>(b) .....
- <sup>F379</sup>(c) .....
- (d) whether the person is subject to a direction under section 167A of the Education Act 2002 (prohibition on participation in management of independent school).

<sup>F380</sup>(3B) .....

<sup>F380</sup>(3C) .....

(3D) Expressions used in [<sup>F381</sup>subsection (3A)] and in the Safeguarding Vulnerable Groups Act 2006 have the same meaning in [<sup>F382</sup>that subsection] as in that Act <sup>F383</sup>....]

- (4) It shall be the duty of the chief officer of any police force to comply, as soon as practicable after receiving it, with any request by the Secretary of State to provide the Secretary of State with information which—
  - (a) is available to the chief officer;
  - (b) relates to—
    - (i) an applicant for registration;
    - (ii) a registered person; or
    - (iii) an individual who is likely to have access to information in consequence of [<sup>F656</sup>a particular applicant for registration, or a

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

particular registered person, acting as the registered person in relation to applications under this Part] ;

and

- (c) concerns a matter which the Secretary of State has notified to the chief officer to be a matter which, in the opinion of the Secretary of State, is relevant to the determination of the suitability of individuals for having access to the information that may be provided in consequence of [F657 a person acting as the registered person in relation to ] applications under this Part.

(5) In this section “relevant matter” has the same meaning as in section [F387 113A].

[ For the purposes of this section references to a police force include any body F388 (6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.]

[ The Secretary of State may by order made by statutory instrument amend F389 (7) subsection (3A) for the purpose of altering the information specified in that subsection.

(8) Such an order is subject to annulment in pursuance of a resolution of either House of Parliament.]]

#### Extent Information

**E4** This version of this provision extends to England and Wales only; separate versions have been created for Scotland and Northern Ireland only

#### Textual Amendments

- F371** S. 120A inserted (E.W.N.I.) (19.6.2001) by 2001 c. 16, s. 134(1); S.I. 2001/2223, art. 2(1)(c)
- F372** Words in s. 120A inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 35 para. 8; S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F377** S. 120A(3)(b) substituted (10.9.2012 for E.W.N.I.) by Policing and Crime Act 2009 (c. 26), ss. 96(2), 116(1); S.I. 2012/2235, art. 2(a)
- F378** S. 120A(3A)-(3D) inserted (10.9.2012 for E.W.N.I.) by Policing and Crime Act 2009 (c. 26), ss. 96(3), 116(1); S.I. 2012/2235, art. 2(a)
- F379** S. 120A(3A)(b)(c) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(2), Sch. 10 Pt. 5 (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F380** S. 120A(3B)(3C) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(3), Sch. 10 Pt. 5 (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F381** Words in s. 120A(3D) substituted (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(4)(a) (with s. 97); S.I. 2012/2234, art. 2(aa)(i)
- F382** Words in s. 120A(3D) substituted (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(4)(b) (with s. 97); S.I. 2012/2234, art. 2(aa)(i)
- F383** Words in s. 120A(3D) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by

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Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(4)(c), **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)

- F387** Word in s. 120A(5) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 8(b)**; S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F388** S. 120A(6) inserted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 165(2), 178(4)(d)(8)**; S.S.I. 2006/166, **art. 2(1)(c)**; S.I. 2006/378, **art. 7(d)**; S.I. 2007/3341, **art. 2(b)**
- F389** S. 120A(7)(8) inserted (10.9.2012 for E.W.N.I.) by Policing and Crime Act 2009 (c. 26), **ss. 96(4), 116(1)**; S.I. 2012/2235, art. 2(a)
- F656** Words in s. 120A(4)(b)(iii) substituted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 12(a)**; S.R. 2015/358, art. 2(m)(i)
- F657** Words in s. 120A(4)(c) substituted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 12(b)**; S.R. 2015/358, art. 2(m)(i)

#### Modifications etc. (not altering text)

- C34** S. 120A modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by Safeguarding Vulnerable Groups (Regulated Activity, Transitional Provisions and Commencement No. 4) Order (Northern Ireland) 2009 (S.R. 2009/304), **art. 9**
- C35** S. 120A(3) applied (13.8.2001) by S.I. 2001/1194, reg. 3A(4) (as inserted by S.I. 2001/2498, reg. 2(3))
- C37** S. 120A modified (temp.) (12.10.2009) by The Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009 (S.I. 2009/2610), arts. 1(1), **8**

#### Commencement Information

- I20** S. 120A in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(c)**

### **[<sup>F390</sup>120A] Refusal, cancellation or suspension of registration on other grounds** **E+W**

- (1) Regulations may make provision enabling [<sup>F391</sup>DBS] in prescribed cases to refuse to register a person who, in the opinion of [<sup>F391</sup>DBS], is likely to [<sup>F392</sup>act as the registered person in relation to] fewer applications under this Part in any period of twelve months than a prescribed minimum number.
- (2) Subsection (3) applies where a registered person—
- is, in the opinion of [<sup>F393</sup>DBS], no longer likely to wish to [<sup>F394</sup>act as the registered person in relation to] applications under this Part,
  - has, in any period of twelve months during which he was registered, [<sup>F395</sup>acted as the registered person in relation to] fewer applications under this Part than the minimum number specified in respect of him by regulations under subsection (1), or
  - has failed to comply with any condition of his registration.
- (3) Subject to section 120AB, [<sup>F396</sup>DBS] may—
- suspend that person's registration for such period not exceeding 6 months as [<sup>F396</sup>DBS] thinks fit, or
  - remove that person from the register.
- [ Subsection (6) applies if an application is made under section 120 by an individual <sup>F397</sup>(4) who—
- has previously been a registered person; and

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- (b) has been removed from the register (otherwise than at that individual's own request).
- (5) Subsection (6) also applies if an application is made under section 120 by a body corporate or unincorporate which—
- (a) has previously been a registered person; and
- (b) has been removed from the register (otherwise than at its own request).
- (6) [<sup>F398</sup>DBS] may refuse the application.]

#### Extent Information

- E5** This version of this provision extends to England and Wales only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F390** Ss. 120AA, 120AB inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 9](#); [S.I. 2006/751](#), art. 2(c)(ii); [S.I. 2007/3340](#), art. 2(b)
- F391** Words in s. 120AA(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), [37\(p\)](#) (with Pt. 4)
- F392** Words in s. 120AA(1) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [8\(2\)](#)
- F393** Words in s. 120AA(2) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), [37\(p\)](#) (with Pt. 4)
- F394** Words in s. 120AA(2)(a) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [8\(3\)\(a\)](#)
- F395** Words in s. 120AA(2)(b) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [8\(3\)\(b\)](#)
- F396** Words in s. 120AA(3) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), [37\(p\)](#) (with Pt. 4)
- F397** S. 120AA(4)-(6) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [ss. 81, 120](#) (with s. 97); [S.I. 2012/2234](#), art. 2(t)
- F398** Words in s. 120AA(6) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), [37\(p\)](#) (with Pt. 4)

#### Commencement Information

- I21** S. 120AA in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(d\)](#)

#### [<sup>F390</sup>120AA] **Refusal, cancellation or suspension of registration on other grounds** **N.I.**

- (1) Regulations may make provision enabling the Secretary of State in prescribed cases to refuse to register a person who, in the opinion of the Secretary of State, is likely to [<sup>F658</sup> act as the registered person in relation to ] fewer applications under this Part in any period of twelve months than a prescribed minimum number.
- (2) Subsection (3) applies where a registered person—

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- (a) is, in the opinion of the Secretary of State, no longer likely to wish to [<sup>F659</sup>act as the registered person in relation to ] applications under this Part,
  - (b) has, in any period of twelve months during which he was registered, [<sup>F660</sup>acted as the registered person in relation to ] fewer applications under this Part than the minimum number specified in respect of him by regulations under subsection (1), or
  - (c) has failed to comply with any condition of his registration.
- (3) Subject to section 120AB, the Secretary of State may—
- (a) suspend that person's registration for such period not exceeding 6 months as the Secretary of State thinks fit, or
  - (b) remove that person from the register.
- [ Subsection (6) applies if an application is made under section 120 by an individual <sup>F661</sup>(4) who—
- (a) has previously been a registered person; and
  - (b) has been removed from the register (otherwise than at that individual's own request).
- (5) Subsection (6) also applies if an application is made under section 120 by a body corporate or unincorporate which—
- (a) has previously been a registered person; and
  - (b) has been removed from the register (otherwise than at its own request).
- (6) The Department may refuse the application.]]

#### Extent Information

**E16** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F390** Ss. 120AA, 120AB inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003](#) (c. 44), s. 336(3)(4), [Sch. 35 para. 9](#); S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)

**F658** Words in s. 120AA(1) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015](#) (c. 9), s. 106(2), [Sch. 5 para. 13\(2\)](#); S.R. 2015/358, art. 2(m)(i)

**F659** Words in s. 120AA(2)(a) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015](#) (c. 9), s. 106(2), [Sch. 5 para. 13\(3\)\(a\)](#); S.R. 2015/358, art. 2(m)(i)

**F660** Words in s. 120AA(2)(b) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015](#) (c. 9), s. 106(2), [Sch. 5 para. 13\(3\)\(b\)](#); S.R. 2015/358, art. 2(m)(i)

**F661** 120AA(4)-(6) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015](#) (c. 9), [ss. 39](#), 106(2); S.R. 2015/358, art. 2(d)

#### Commencement Information

**I21** S. 120AA in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(d\)](#)

### 120AB Procedure for cancellation or suspension under section 120AA

- (1) Before cancelling or suspending a person's registration by virtue of section 120AA, [<sup>F399</sup>the Secretary of State][<sup>F399</sup>DBS] must send [<sup>F400</sup>him][<sup>F400</sup>its] written notice of his intention to do so.



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- (2) Every such notice must—
  - (a) give [<sup>F401</sup>the Secretary of State's][<sup>F401</sup>DBS's] reasons for proposing to cancel or suspend the registration, and
  - (b) inform the person concerned of his right under subsection (3) to make representations.
- (3) A person who receives such a notice may, within 21 days of service, make representations in writing to [<sup>F402</sup>the Secretary of State][<sup>F402</sup>DBS] as to why the registration should not be cancelled or suspended.
- (4) After considering such representations, [<sup>F403</sup>the Secretary of State][<sup>F403</sup>DBS] must give the registered person written notice—
  - (a) that at the end of a further period of six weeks beginning with the date of service, the person's registration will be cancelled or suspended, or
  - (b) that [<sup>F404</sup>he][<sup>F404</sup>it] does not propose to take any further action.
- (5) If no representations are received within the period mentioned in subsection (3) [<sup>F405</sup>the Secretary of State][<sup>F405</sup>DBS] may cancel or suspend the person's registration at the end of the period mentioned in that subsection.
- (6) Subsection (1) does not prevent [<sup>F406</sup>the Secretary of State][<sup>F406</sup>DBS] from imposing on the registered person a lesser sanction than that specified in the notice under that subsection.
- (7) Any notice under this section that is required to be given in writing may be given by being transmitted electronically.
- (8) This section does not apply where—
  - (a) [<sup>F407</sup>the Secretary of State][<sup>F407</sup>DBS] is satisfied, in the case of a registered person other than a body, that the person has died or is incapable, by reason of physical or mental impairment, of [<sup>F408</sup>acting as the registered person in relation to] applications under this Part, or
  - (b) the registered person has requested to be removed from the register.
- (9) The Secretary of State may by regulations amend subsection (4)(a) by substituting for the period there specified, such other period as may be specified in the regulations.]

#### Textual Amendments

- F390** Ss. 120AA, 120AB inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003](#) (c. 44), s. 336(3)(4), [Sch. 35 para. 9](#); S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F399** Words in s. 120AB(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012](#) (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), [37\(q\)](#) (with Pt. 4)
- F400** Word in s. 120AB(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012](#) (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), [45\(a\)](#) (with Pt. 4)
- F401** Words in s. 120AB(2) substituted (E.W.) (1.12.2012) by virtue of [The Protection of Freedoms Act 2012](#) (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), [37\(q\)](#) (with Pt. 4)
- F402** Words in s. 120AB(3) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012](#) (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), [37\(q\)](#) (with Pt. 4)

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- F403** Words in s. 120AB(4) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(q)** (with Pt. 4)
- F404** Word in s. 120AB(4)(b) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **45(b)** (with Pt. 4)
- F405** Words in s. 120AB(5) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(q)** (with Pt. 4)
- F406** Words in s. 120AB(6) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(q)** (with Pt. 4)
- F407** Words in s. 120AB(8) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(q)** (with Pt. 4)
- F408** Words in s. 120AB(8)(a) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), 9; and substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 14**; S.R. 2015/358, art. 2(m)(i)

#### Commencement Information

- I22** S. 120AB in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), **art. 2(e)**

#### [<sup>F409</sup>120A] **Registered persons: information on progress of an application** **E+W**

- (1) [<sup>F410</sup>DBS] must, in response to a request from a person who is acting as the registered person in relation to an application under section 113A or 113B, inform that person whether or not a certificate has been issued in response to the application.
- (2) Subsections (3) and (4) apply if, at the time a request is made under subsection (1), a certificate has been issued.
- (3) In the case of a certificate under section 113A, if it was a certificate stating that there is no relevant matter recorded in central records, [<sup>F411</sup>DBS] may inform the person who made the request that the certificate was such a certificate.
- (4) In the case of a certificate under section 113B, if it was a certificate—
  - (a) stating that there is no relevant matter recorded in central records and no information provided in accordance with subsection (4) of that section, and
  - (b) if section 113BA(1) or 113BB(1) applies to the certificate, containing no suitability information indicating that the person to whom the certificate is issued—
    - (i) is barred from regulated activity relating to children or to vulnerable adults, or
    - (ii) is subject to a direction under 128 of the Education and Skills Act 2008 or section 167A of the Education Act 2002,
 [<sup>F412</sup>DBS] may inform the person who made the request that the certificate was such a certificate.
- (5) If no certificate has been issued, [<sup>F413</sup>DBS] must inform the person who made the request of such other matters relating to the processing of the application as [<sup>F413</sup>DBS] considers appropriate.

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- (6) Subject to subsections (2) to (4), nothing in this section permits [<sup>F414</sup>DBS] to inform a person who is acting as the registered person in relation to an application under section 113A or 113B of the content of any certificate issued in response to the application.
- (7) [<sup>F415</sup>DBS] may refuse a request under subsection (1) if it is made after the end of a prescribed period beginning with the day on which the certificate was issued.
- (8) In this section—
  - “central records” and “relevant matter” have the same meaning as in section 113A,
  - “suitability information” means information required to be included in a certificate under section 113B by virtue of section 113BA or 113BB.
- (9) Expressions in subsection (4)(b) and in the Safeguarding Vulnerable Groups Act 2006 have the same meaning in that paragraph as in that Act.

#### Extent Information

- E6** This version of this provision extends to England and Wales only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F409** Ss. 120AC, 120AD inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157) for specified purposes) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 79(3)**, 120 (with s. 97); S.I. 2012/2234, art. 2(r)
- F410** Words in s. 120AC(1) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(r)** (with Pt. 4)
- F411** Words in s. 120AC(3) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(r)** (with Pt. 4)
- F412** Words in s. 120AC(4) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(r)** (with Pt. 4)
- F413** Words in s. 120AC(5) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(r)** (with Pt. 4)
- F414** Words in s. 120AC(6) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(r)** (with Pt. 4)
- F415** Words in s. 120AC(7) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(r)** (with Pt. 4)

#### [<sup>F662</sup>120AC] **Registered persons: information on progress of an application** **N.I.**

- (1) The Department must, in response to a request from a person who is acting as the registered person in relation to an application under section 113A or 113B, inform that person whether or not a certificate has been issued in response to the application.
- (2) Subsections (3) and (4) apply if, at the time a request is made under subsection (1), a certificate has been issued.
- (3) In the case of a certificate under section 113A, if it was a certificate stating that there is no relevant matter recorded in central records, the Department may inform the person who made the request that the certificate was such a certificate.

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- (4) In the case of a certificate under section 113B, if it was a certificate—
- (a) stating that there is no relevant matter recorded in central records and no information provided in accordance with subsection (4) of that section, and
  - (b) if section 113BA(1) or 113BB(1) applies to the certificate, containing no suitability information indicating that the person to whom the certificate is issued—
    - (i) is barred from regulated activity relating to children or to vulnerable adults, or
    - (ii) is included in a list kept under Article 70(2)(e)(iii) or 88A(2)(b)(iii) of the Education and Libraries (Northern Ireland) Order 1986,
 the Department may inform the person who made the request that the certificate was such a certificate.
- (5) If no certificate has been issued, the Department must inform the person who made the request of such other matters relating to the processing of the application as the Department considers appropriate.
- (6) Subject to subsections (2) to (4), nothing in this section permits the Department to inform a person who is acting as the registered person in relation to an application under section 113A or 113B of the content of any certificate issued in response to the application.
- (7) The Department may refuse a request under subsection (1) if it is made after the end of a prescribed period beginning with the day on which the certificate was issued.
- (8) In this section—
- “central records” and “relevant matter” have the same meaning as in section 113A;
- “suitability information” means information required to be included in a certificate under section 113B by virtue of section 113BA or 113BB.
- (9) Expressions in subsection (4)(b) and in the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 have the same meaning in that paragraph as in that Order.]

#### Extent Information

**E17** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F662** Ss. 120AC, 120AD inserted (N.I) (2.11.2015 for the insertion of s. 120AC) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 37\(2\)](#), 106(2); [S.R. 2015/358](#), [art. 2\(b\)](#)

### 120AD Registered persons: copies of certificates in certain circumstances E+W

- (1) Subsection (2) applies if—
- (a) <sup>[F416]</sup>DBS] gives up-date information in relation to a criminal record certificate or enhanced criminal record certificate,
  - (b) the up-date information is advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate, and

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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- (c) the person whose certificate it is in respect of which the up-date information is given applies for a new criminal record certificate or (as the case may be) enhanced criminal record certificate.
  - (2) [<sup>F417</sup>DBS] must, in response to a request made within the prescribed period by the person who is acting as the registered person in relation to the application, send to that person a copy of any certificate issued in response to the application if the registered person—
    - (a) has counter-signed the application or transmitted it to [<sup>F417</sup>DBS] under section 113A(2A) or 113B(2A),
    - (b) has informed [<sup>F417</sup>DBS] that the applicant for the new certificate has not, within such period as may be prescribed, sent a copy of it to a person of such description as may be prescribed, and
    - (c) no prescribed circumstances apply.
  - (3) The power under subsection (2)(b) to prescribe a description of person may be exercised to describe the registered person or any other person.
  - (4) In this section “up-date information” has the same meaning as in section 116A.]

#### Extent Information

- E6** This version of this provision extends to England and Wales only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F409** Ss. 120AC, 120AD inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157) for specified purposes) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 79\(3\), 120 \(with s. 97\); S.I. 2012/2234, art. 2\(r\)](#)
- F416** Words in s. 120AD(1) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(s\) \(with Pt. 4\)](#)
- F417** Words in s. 120AD(2) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(s\) \(with Pt. 4\)](#)

### [<sup>F662</sup>120AD] Registered persons: copies of certificates in certain circumstances **N.I.**

- (1) Subsection (2) applies if—
  - (a) the Department gives up-date information in relation to a criminal record certificate or enhanced criminal record certificate,
  - (b) the up-date information is advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate, and
  - (c) the person whose certificate it is in respect of which the up-date information is given applies for a new criminal record certificate or (as the case may be) enhanced criminal record certificate.
- (2) The Department must, in response to a request made within the prescribed period by the person who is acting as the registered person in relation to the application, send to that person a copy of any certificate issued in response to the application if the registered person—
  - (a) has counter-signed the application or transmitted it to the Department under section 113(2A) or 113B(2A),

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- (b) has informed the Department that the applicant for the new certificate has not, within such period as may be prescribed, sent a copy of it to a person of such description as may be prescribed, and
  - (c) no prescribed circumstances apply.
- (3) The power under subsection (2)(b) to prescribe a description of person may be exercised to describe the registered person or any other person.
- (4) In this section “up-date information” has the same meaning as in section 116A.]

#### Extent Information

**E17** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F662** Ss. 120AC, 120AD inserted (N.I.) (2.11.2015 for the insertion of s. 120AC) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 37(2)**, 106(2); S.R. 2015/358, art. 2(b)

## 121 Performance by constables on central service in Scotland of functions under this Part.

[<sup>F418</sup>In Scotland a constable engaged on central service (within the meaning of section 38 of the <sup>M11</sup>Police (Scotland) Act 1967) may perform functions under this Part (other than functions [<sup>F419</sup> in relation to the making of regulations or orders]) on behalf of the Secretary of State; and without prejudice to the application of subsection (5) of section 119 in respect of any other person performing functions on behalf of the Secretary of State, that subsection shall apply in respect of any constable performing functions by virtue of this section as the subsection applies in respect of the Secretary of State.]

#### Textual Amendments

**F418** S. 121 repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 38** (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.

**F419** Words in s. 121 substituted (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 10**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c)

#### Commencement Information

**I23** S. 121 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**  
S. 121 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

#### Marginal Citations

**M11** 1967 c. 77.

## 122 Code of practice. **E+W+N.I.**

- (1) The Secretary of State shall publish, and may from time to time revise, a code of practice in connection with the use of information provided to [<sup>F420</sup>, or the discharge of any function by,] registered persons under this Part.

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- [<sup>F421</sup>(1A) The reference in subsection (1) to the use of information provided to registered persons under this Part includes a reference to the use of information provided in accordance with section 116A(1) to relevant persons (within the meaning of that section) who are not registered persons under this Part.]
- (2) The Secretary of State shall lay before Parliament the code of practice under this section as soon as practicable after publication and after revision.
- (3) [<sup>F422</sup>Subsection (3A) applies if [<sup>F423</sup>the Secretary of State][<sup>F423</sup>DBS] thinks that the [<sup>F424</sup>registered person who countersigned][<sup>F424</sup>person who acted as the registered person in relation to] an application for a certificate under section 113A or 113B]—
- (a) has failed to comply with the code of practice under this section, or
- (b) [<sup>F425</sup>countersigned][<sup>F425</sup>acted as the registered person] at the request of a body which, or individual who, has failed to comply with the code of practice.
- [<sup>F426</sup>(3A) [<sup>F427</sup>The Secretary of State][<sup>F427</sup>DBS] may—
- (a) [<sup>F428</sup>refuse to issue the certificate;]
- (b) suspend the registration of the person;
- (c) cancel the registration of the person.
- (3B) Section 120AB applies if [<sup>F429</sup>the Secretary of State][<sup>F429</sup>DBS] proposes to suspend or cancel a person's registration under subsection (3A) above as it applies if [<sup>F430</sup>he][<sup>F430</sup>it] proposes to suspend or cancel a person's registration by virtue of section 120AA.]

#### Extent Information

- E7 This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

#### Textual Amendments

- F420** Words in s. 122(1) inserted (E.W.N.I.) (20.1.2009) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), ss. 29\(2\), 65 \(with ss. 51, 57\(3\), 60\(4\), 64\(5\)\); S.I. 2009/39, art. 2\(1\)\(d\)](#)
- F421** S. 122(1A) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 113 \(with s. 97\); S.I. 2013/1180, art. 2\(e\)\(iii\)](#)
- F422** Words in s. 122(3) substituted (E.W.N.I.) (20.1.2009) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), ss. 29\(3\), 65 \(with ss. 51, 57\(3\), 60\(4\), 64\(5\)\); S.I. 2009/39, art. 2\(1\)\(d\)](#)
- F423** Words in s. 122(3) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(t\) \(with Pt. 4\)](#)
- F424** Words in s. 122(3) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\), arts. 1\(1\), 10\(a\)](#)
- F425** Words in s. 122(3)(b) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\), arts. 1\(1\), 10\(b\)](#)
- F426** S. 122(3A)(3B) inserted (E.W.N.I.) (20.1.2009) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), ss. 29\(4\), 65 \(with ss. 51, 57\(3\), 60\(4\), 64\(5\)\); S.I. 2009/39, art. 2\(1\)\(d\)](#)
- F427** Words in s. 122(3A) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(t\) \(with Pt. 4\)](#)
- F428** S. 122(3A)(a) repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 5 para. 15\(4\), Sch. 9 Pt. 3; S.R. 2015/358, art. 2\(m\)\(v\)](#)
- F429** Words in s. 122(3B) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(t\) \(with Pt. 4\)](#)

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**F430** Word in s. 122(3B) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **46** (with Pt. 4)

#### Commencement Information

- I24** S. 122(1)(2) in force at 19.3.2001 for E.W. by [S.I. 2001/1097](#), art. 2(1); s. 122(3) in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), art. 2  
S. 122(1)(2) in force at 1.1.2002 for S. by [S.S.I. 2001/482](#), art. 2(1); s. 122(3) in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), art. 4
- I25** S. 122 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), art. 2(f)

### [<sup>F452</sup>122 Code of practice. **S**

- (1) The Secretary of State shall publish, and may from time to time revise, a code of practice in connection with the use of information provided to [<sup>F663</sup>, or the discharge of any function by,] registered persons under this Part.
- (2) The Secretary of State shall lay before Parliament the code of practice under this section as soon as practicable after publication and after revision.
- (3) The Secretary of State may refuse to issue a certificate under section [<sup>F664</sup>113A or 113B][<sup>F665</sup>, or make a disclosure under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14),] if he believes that the registered person who countersigned the application [<sup>F666</sup>or, as the case may be, made the declaration in relation to the disclosure request] —
  - (a) has failed to comply with the code of practice under this section, or
  - (b) countersigned [<sup>F667</sup>or, as the case may be, made the declaration] acted as the registered person at the request of a body which, or individual who, has failed to comply with the code of practice.

[ Where the Scottish Ministers have reason to believe that—

- <sup>F668</sup>(4) (a) a registered person; or  
(b) a body or individual at whose request a registered person  
[ has countersigned or is likely to countersign an application under  
<sup>F669</sup>(i)] section [<sup>F670</sup>113A or 113B][<sup>F671</sup>; or  
(ii) has made or is likely to make a declaration in relation to a disclosure request made under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)]

has failed to comply with the code of practice, they may remove the registered person from the register or impose conditions on him as respects his continuing to be listed in the register.]]

#### Extent Information

**E18** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

#### Textual Amendments

**F452** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. **70(8)**, 89(2); [S.S.I. 2006/168](#), art. 2



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- F663** Words in s. 122(1) inserted (S.) (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 70(7)(a)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F664** Words in s. 122(3) substituted (1.4.2006 for S.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 11**; S.S.I. 2006/166, **art. 2(1)(e)**
- F665** Words in s. 122(3) inserted (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 39(a)(i)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 4)
- F666** Words in s. 122(3) inserted (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 39(a)(ii)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 4)
- F667** Words in s. 122(3) inserted (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 39(a)(iii)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 4)
- F668** S. 122(4) added (S.) (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 70(7)(b)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F669** S. 122(4)(b)(i): words in s. 122(4)(b) renumbered as s. 122(4)(b)(i) (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 39(b)(i)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 4)
- F670** Words in s. 122(4)(b) substituted (1.4.2006 for S.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 11**; S.S.I. 2006/166
- F671** S. 122(4)(b)(ii) and word inserted (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 39(b)(ii)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 4)

#### Commencement Information

- I24** S. 122(1)(2) in force at 19.3.2001 for E.W. by S.I. 2001/1097, art. 2(1); s. 122(3) in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**  
S. 122(1)(2) in force at 1.1.2002 for S. by S.S.I. 2001/482, art. 2(1); s. 122(3) in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**
- I25** S. 122 in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(f)**

#### [<sup>F431</sup>122A] Delegation of functions of Secretary of State

- [<sup>F432</sup>(1) The Secretary of State may, to such extent and subject to such conditions as he thinks fit, delegate any relevant function of his under this Part to such person as he may determine.
- (2) A function is relevant for the purposes of subsection (1) if it does not consist of a power—
- to make regulations, or
  - to publish or revise a code of practice or to lay any such code before Parliament.
- (3) A delegation under subsection (1) may be varied or revoked at any time.]]

#### Textual Amendments

- F431** S. 122A inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 35 para. 10**; S.I. 2004/81, art. 4(1)(2)(o)(i); S.I. 2007/3340, art. 2(b)
- F432** S. 122A omitted (E.W.) (1.12.2012) by virtue of The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **51** (with Pt. 4)

#### Commencement Information

- I26** S. 122A in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(g)**

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## [<sup>F433</sup>122B] Delegation of functions of Scottish Ministers

- (1) The Scottish Ministers may, to such extent and subject to such conditions as they think appropriate, delegate any of their functions under this Part (other than excepted functions) to such person as they may determine.
- (2) An excepted function is a function—
  - (a) relating to the making of regulations or orders;
  - (b) relating to the publishing or revising of a code of practice;
  - (c) relating to the laying of a code of practice before the Scottish Parliament;
  - (d) relating to the determination of an appropriate fee under section 113B(5A) or 119(3); or
  - (e) under section 125A.
- (3) A delegation under subsection (1) may be varied or revoked at any time.
- (4) No proceedings are competent against a person performing functions delegated under this section by reason of an inaccuracy in the information made available or provided to the person in accordance with section 119.]

### Textual Amendments

**F433** S. 122B inserted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 40](#) (with [ss. 90, 99](#)); [S.S.I. 2007/564](#), art. 2, sch.

## 123 Offences: falsification, &c.

- (1) A person commits an offence if, with intent to deceive, he—
  - (a) makes a false certificate under this Part,
  - (b) alters a certificate under this Part,
  - (c) uses a certificate under this Part which relates to another person in a way which suggests that it relates to himself, or
  - (d) allows a certificate under this Part which relates to him to be used by another person in a way which suggests that it relates to that other person.
- (2) A person commits an offence if he knowingly makes a false statement for the purpose of obtaining, or enabling another person to obtain, a certificate under this Part.
- (3) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

### Commencement Information

- I27** S. 123 in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), art. 2  
S. 123 in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), art. 4
- I28** S. 123 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), art. 2(h)

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## 124 Offences: disclosure.

- (1) A member, officer or employee of a body registered under section 120 commits an offence if he discloses information provided following an application under section [F434 113A or 113B] unless he discloses it, in the course of his duties,—
  - (a) to another member, officer or employee of the registered body,
  - (b) to a member, officer or employee of a body at the request of which the registered body [F435 countersigned][F435 acted as the registered person in relation to] the application, or
  - (c) to an individual at whose request the registered body [F435 countersigned][F435 acted as the registered person in relation to] the relevant application.
- (2) Where information is provided under section [F436 113A or 113B] following an application [F437 countersigned][F437 in relation to which the person who acted as the registered person did so] at the request of a body which is not registered under section 120, a member, officer or employee of the body commits an offence if he discloses the information unless he discloses it, in the course of his duties, to another member, officer or employee of that body.
- (3) Where information is provided under section [F438 113A or 113B] following an application [F439 countersigned by or at the request of an individual][F439 in relation to which an individual acted as the registered person, or in relation to which the person who acted as the registered person did so at the request of an individual]—
  - (a) the individual commits an offence if he discloses the information unless he discloses it to an employee of his for the purpose of the employee's duties, and
  - (b) an employee of the individual commits an offence if he discloses the information unless he discloses it, in the course of his duties, to another employee of the individual.
- (4) Where information provided under section [F440 113A or 113B] is disclosed to a person and the disclosure—
  - (a) is an offence under this section, or
  - (b) would be an offence under this section but for subsection [F441 (5) or] (6)(a), (d), (e) or (f),the person to whom the information is disclosed commits an offence (subject to [F442 subsections (5) and (6)][F442 subsection (6)]) if he discloses it to any other person.
- (5) [F443 Subsections (1) to (4) do not apply to a disclosure of information provided in accordance with section [F444 113B(5)] which is made with the written consent of the chief officer who provided the information.]
- (6) Subsections (1) to (4) do not apply to a disclosure of information contained in a certificate under section [F445 113A or 113B] which is made—
  - (a) with the written consent of the applicant for the certificate, or
  - (b) to a government department, or
  - (c) to a person appointed to an office by virtue of any enactment, or
  - (d) in accordance with an obligation to provide information under or by virtue of any enactment, or
  - (e) for the purposes of answering an exempted question (within the meaning of section [F446 113A]) of a kind specified in regulations made by the Secretary of State, or

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- (f) for some other purpose specified in regulations made by the Secretary of State.
- (7) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale, or to both.

#### Textual Amendments

- F434** Words in s. 124(1) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F435** Words in s. 124(1)(b)(c) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [11\(2\)](#)
- F436** Words in s. 124(2) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F437** Words in s. 124(2) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [11\(3\)](#)
- F438** Words in s. 124(3) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F439** Words in s. 124(3) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [11\(4\)](#)
- F440** Words in s. 124(4) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F441** Words in s. 124(4)(b) repealed (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 115\(2\)\(a\)](#), [Sch. 10 Pt. 6 \(with s. 97\)](#); S.I. 2012/2234, art. 2(aa)(cc)(x); and repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 16\(5\)\(a\)](#), [Sch. 9 Pt. 3](#); S.R. 2015/358, art. 2(m)(vi)
- F442** Words in s. 124(4)(b) substituted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 115\(2\)\(b\)](#) (with s. 97); S.I. 2012/2234, [art. 2\(aa\)\(x\)](#); and substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 16\(5\)\(b\)](#); S.R. 2015/358, [art. 2\(m\)\(vi\)](#)
- F443** S. 124(5) repealed (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 115\(3\)](#), [Sch. 10 Pt. 6 \(with s. 97\)](#); S.I. 2012/2234, art. 2(aa)(cc)(x)
- F444** Word in s. 124(5) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(b\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F445** Words in s. 124(6) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F446** Word in s. 124(6)(e) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(e\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

#### Commencement Information

- I29** S. 124 in force at 1.3.2002 for E.W. by S.I. 2002/413, [art. 2](#)  
S. 124 in force at 25.4.2002 for S. by S.S.I. 2002/124, [art. 4](#)

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**I30** S. 124 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(i\)](#)

[<sup>F447</sup> **124A** Further offences: disclosure of information obtained in connection with delegated function **E+W+N.I.**]

- (1) Any person who is engaged in the discharge of functions conferred by this Part on [<sup>F448</sup>the Secretary of State][<sup>F448</sup>DBS] commits an offence if he discloses information which has been obtained by him in connection with those functions and which relates to a particular person unless he discloses the information, in the course of his duties,—
  - (a) to another person engaged in the discharge of those functions,
  - (b) to the chief officer of a police force in connection with a request under this Part to provide information to [<sup>F448</sup>the Secretary of State][<sup>F448</sup>DBS], or
  - (c) to an applicant <sup>F449</sup>... who is entitled under this Part to the information disclosed to him.
- (2) Where information is disclosed to a person and the disclosure—
  - (a) is an offence under subsection (1), or
  - (b) would be an offence under subsection (1) but for subsection (3)(a), (d) or (e),the person to whom the information is disclosed commits an offence if he discloses it to any other person.
- (3) Subsection (1) does not apply to a disclosure of information which is made—
  - (a) with the written consent of the person to whom the information relates,
  - (b) to a government department,
  - (c) to a person appointed to an office by virtue of any enactment,
  - (d) in accordance with an obligation to provide information under or by virtue of any enactment, or
  - (e) for some other purpose specified in regulations made by the Secretary of State.
- (4) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 3 on the standard scale, or to both.
- (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4) to 51 weeks is to be read as a reference to 6 months.

[ For the purposes of this section the reference to a police force includes any body <sup>F450</sup>(6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and the reference to a chief officer must be construed accordingly.]

[ For the purposes of this section the reference to an applicant includes a person who <sup>F451</sup>(6A) makes a request under section 116A(1), 120AC(1) or 120AD(2).]

**Extent Information**

**E8** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

**Textual Amendments**

**F447** S. 124A inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 11](#); [S.I. 2004/81](#), art. 4(1)(2)(o)(i); [S.I. 2007/3340](#), art. 2(b)

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F448** Words in s. 124A(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **37(u)** (with Pt. 4)
- F449** Words in s. 124A(1)(c) repealed (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 116\(2\)](#), [Sch. 10 Pt. 6](#) (with s. 97); S.I. 2013/1180, art. 2(f); and repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 17\(2\)](#), [Sch. 9 Pt. 3](#); S.R. 2015/358, art. 2(m)(i)
- F450** S. 124A(6) inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 165\(3\)](#), 178(4)(d)(8); S.I. 2006/378, art. 7(d); S.I. 2007/3341, art. 2(b)
- F451** S. 124A(6A) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 116\(3\)](#) (with s. 97); S.I. 2012/2234, art. 2(aa)(xi); and inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 17\(3\)](#); S.R. 2015/358, art. 2(m)(i)

#### Commencement Information

- I31** S. 124A in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(j\)](#)

### [<sup>F452</sup>124A] **Review of certain decisions as to registration** S

- (1) Where the Scottish Ministers decide to refuse to include a person in the register maintained for the purposes of this Part or, other than by virtue of section 120(3)(b), to remove him from that register they shall notify him in writing of that decision and of their reason for so deciding and shall send a copy of that notification to the Secretary of State.
- (2) If the person considers that the information upon which the decision was based may have been inaccurate he may, by written notice to the Scottish Ministers setting out his reason for so considering, require them to review the decision; and they shall notify him in writing of the results of their review and of any consequential change in the decision and shall send a copy of—
  - (a) the notice; and
  - (b) the notification,
 to the Secretary of State.
- (3) Any notification given by the Scottish Ministers under subsection (1) or (2) shall include information as to the provisions of any regulations made under section 120(3)(ac).
- (4) The Scottish Ministers may, for the purposes of this section, make regulations as to procedure; and such regulations may, in particular, make provision in relation to—
  - (a) information to be included in any notification under subsection (1) or (2); and
  - (b) the period within which—
    - (i) a requirement may be made under subsection (2); or
    - (ii) a decision under subsection (1) is to be implemented.]

#### Extent Information

- E19** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F452** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2

#### [<sup>F452</sup>**124B** Scottish annotated list of certificated persons

- (1) The Scottish Ministers shall maintain an annotated list for the purposes of this Part and shall include in that list all persons to whom a criminal record certificate, or as the case may be an enhanced criminal record certificate, has been issued under any of sections 113 to 116 of this Act.
- (2) The Scottish Ministers may make regulations about the maintenance of the list; and such regulations may, in particular, provide for—
  - (a) the information to be included in the list;
  - (b) the details to be provided, for the purposes of this section, by persons applying to be issued a criminal record certificate or enhanced criminal record certificate or countersigning any such application;
  - (c) the procedure to be followed as respects the exercise of such discretion as is afforded them by subsection (3).
- (3) The Scottish Ministers may, as respects a person included in the list, if they are satisfied that it is appropriate to do so, notify the registered person who countersigned his application for the certificate in question (or on whose behalf that application was countersigned) or whomever else made the requisite statement which accompanied that application, about any relevant matter relating to the listed person (“relevant matter” having the same meaning as in section 113(5)) of which they become aware after issuing that certificate.
- (4) The Scottish Ministers are not to be satisfied as is mentioned in subsection (3) unless they are satisfied that the exempted question for the purpose of which the certificate was required remains relevant for the person to whom notification would, under that subsection, be given.
- (5) Regulations under paragraph (c) of subsection (2)—
  - (a) shall provide for there to be an opportunity for a listed person to make representations as respects whether the Scottish Ministers should be satisfied as is mentioned in subsection (3) and require them to have regard to those representations before giving notification under that subsection; and
  - (b) may require the person who would receive that notification (not being a person who is a Minister of the Crown) to provide them with such information as is in his possession and to which it would be appropriate for them to have regard as respects the exercise of the discretion mentioned in that paragraph.]

#### Textual Amendments

**F452** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2

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## 125 Regulations.

- (1) Anything authorised or required by any provision of this Part to be prescribed shall be prescribed by regulations made by the Secretary of State.

[<sup>F453</sup>(1A) In prescribing the amount of a fee that—

- (a) is payable in relation to applications under a particular provision of this Part, but  
(b) is not payable in relation to applications made by volunteers,

the Secretary of State may take into account not only the costs associated with applications in relation to which the fee is payable but also the costs associated with applications under that provision made by volunteers.]

- (2) Regulations under this Part shall be made by statutory instrument.

<sup>F454</sup>(3) .....

- (4) A statutory instrument <sup>F455</sup>... shall be subject to annulment pursuant to a resolution of either House of Parliament.

- (5) Regulations under this Part may make different provision for different cases.

[<sup>F456</sup>(6) If the power mentioned in subsection (1) is exercised by the Scottish Ministers, the reference in [<sup>F457</sup>subsection (3)][<sup>F457</sup>subsection (4)] to each House of Parliament must be construed as a reference to the Scottish Parliament.]

### Textual Amendments

**F453** S. 125(1A) inserted (E.W.) (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), ss. [151](#), [185\(1\)\(2\)\(b\)](#) (with ss. [21](#), [33](#), [42](#), [58](#), [75](#), [93](#))

**F454** S. 125(3) repealed (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. [178\(8\)](#), [Sch. 17 Pt. 2](#); S.S.I. 2006/166, [art. 2\(1\)\(d\)](#); and repealed (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. [336\(3\)\(4\)](#), [Sch. 35 para. 12\(a\)](#), [Sch. 37 Pt. 11](#); S.I. 2006/751, [art. 2\(c\)\(d\)\(i\)\(ii\)](#); S.I. 2007/3340, [art. 2\(b\)](#)

**F455** Words in s. 125(4) repealed (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. [178\(8\)](#), [Sch. 17 Pt. 2](#); S.S.I. 2006/166, [art. 2\(1\)\(d\)](#); and repealed (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. [336\(3\)\(4\)](#), [Sch. 35 para. 12\(b\)](#), [Sch. 37 Pt. 11](#); S.I. 2006/751, [art. 2\(c\)\(d\)\(i\)\(ii\)](#); S.I. 2007/3340, [art. 2\(b\)](#)

**F456** S. 125(6) added (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. [178\(4\)\(e\)\(8\)](#), [Sch. 14 para. 14](#); S.S.I. 2006/166, [art. 2\(1\)\(e\)](#); S.I. 2006/378, [art. 7\(c\)](#); S.I. 2007/3341, [art. 2\(d\)](#)

**F457** Words in s. 125(6) substituted (E.W.) (1.1.2006) by [The Serious Organised Crime and Police Act 2005 \(Amendment\) Order 2005 \(S.I. 2005/3496\)](#), [arts. 1\(1\)](#), [6\(2\)](#)

### Commencement Information

**I32** S. 125 in force at 19.3.2001 for E.W. by S.I. 2001/1097, [art. 2\(1\)](#)

S. 125 in force at 1.1.2002 for S. by S.S.I. 2001/482, [art. 2\(1\)](#)

**I33** S. 125 in force at 3.12.2007 for N.I. by S.I. 2007/3342, [art. 2\(k\)](#)



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## [<sup>F458</sup>125A] Form of applications

- (1) It is for the Scottish Ministers to determine the form and manner in which applications must be made for the purposes of sections 112(1)(a), 113A(1)(a), 113B(1)(a), 114(1)(a), 116(1)(a), 117(1), and 120(2).
- (2) The Scottish Ministers may, in particular, determine that such applications may be made in electronic form (and may be signed or countersigned electronically).
- (3) The Scottish Ministers need not consider any such application unless it is made in the form and manner determined by them (or in a form and manner as close to that as circumstances permit).]

### Textual Amendments

**F458** S. 125A inserted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 79\(3\), 101\(2\)](#) (with [ss. 90, 99](#)); [S.S.I. 2007/564](#), [art. 2](#), [sch.](#)

## [<sup>F459</sup>125B] Form of applications

- (1) [<sup>F460</sup>The Secretary of State][<sup>F460</sup>DBS] may determine the form, manner and contents of an application for the purposes of any provision of this Part.
- (2) A determination may, in particular, impose requirements about the form or manner in which an electronic application is to be signed or countersigned.

[ In this section “application” includes a request under section 116A(1), 120AC(1) or <sup>F461</sup>(3) 120AD(2).]

### Textual Amendments

**F459** S. 125B inserted (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 97\(1\), 116\(1\)](#); [S.I. 2010/125](#), [art. 2\(n\)](#)

**F460** Words in s. 125B(1) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), [arts. 1\(1\), 37\(v\)](#) (with [Pt. 4](#))

**F461** S. 125B(3) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [s. 120](#), [Sch. 9 para. 117](#) (with [s. 97](#)); [S.I. 2012/2234](#), [art. 2\(aa\)\(xii\)](#); and inserted (N.I.) (2.11.2015 for specified purposes) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [s. 106\(2\)](#), [Sch. 5 para. 18](#); [S.R. 2015/358](#), [art. 2\(m\)\(vii\)](#)

## 126 Interpretation of Part V.

- (1) In this Part—

“caution” means a caution given to a person in England and Wales or Northern Ireland in respect of an offence which, at the time when the caution is given, he has admitted;

“certificate” means any one or more documents issued in response to a particular application [<sup>F462</sup>but does not include any documents issued in response to—

- ((a)) a request under section 116A(1),

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- ((b)) an application as mentioned in section 116A(4)(a) or (5)(a), or  
 ((c)) a request under section 120AC or 120AD];  
 “chief officer” means—  
 (i) a chief officer of police of a police force in England and Wales,  
 (ii) [<sup>F463</sup>the chief constable of the Police Service of Scotland, and]  
 (iii) the Chief Constable of the [<sup>F464</sup>Police Service of Northern Ireland];  
 [<sup>F465</sup>“DBS” means the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012;]  
 [<sup>F466</sup>“the Department” means the Department of Justice in Northern Ireland;]  
 “government department” includes a Northern Ireland department;  
 “Minister of the Crown” includes a Northern Ireland department;  
 [<sup>F467</sup>“office-holder in the Scottish Administration” has the same meaning as in the Scotland Act 1998 (c. 46);]  
 “police authority” means—  
 (i) [<sup>F468</sup>the Scottish Police Authority, and]  
 (ii) the [<sup>F469</sup>Northern Ireland Policing Board];  
 “police force” means—  
 (i) a police force in Great Britain, and  
 (ii) the [<sup>F464</sup>Police Service of Northern Ireland] and the [<sup>F464</sup>Police Service of Northern Ireland Reserve];  
 “prescribed” shall be construed in accordance with section 125(1).  
 [<sup>F470</sup>“protected conviction” is to be construed in accordance with section 126ZA.]
- (2) In the application of this Part to Northern Ireland, a reference to the <sup>M12</sup>Rehabilitation of Offenders Act 1974, or to a provision of that Act, shall be construed as a reference to the <sup>M13</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978 or, as the case may be, to the corresponding provision of that order.
- [<sup>F471</sup>(3) In the application of this Part to Northern Ireland a reference to the Safeguarding Vulnerable Groups Act 2006, or to a provision of that Act, shall be construed as a reference to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 or, as the case maybe, to the corresponding provision of that Order.]
- [<sup>F472</sup>(3) In the application of this Part to Scotland references to the Secretary of State must be construed as references to the Scottish Ministers.
- (4) Subsection (3) does not apply to section 118(2A)(d) or 124A(1) and (2).]

#### Textual Amendments

**F462** Words in s. 126(1) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157) for specified purposes, 17.6.2013 in so far as not already in force) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 118 (with s. 97); [S.I. 2012/2234](#), art. 2(aa)(xiii); [S.I. 2013/1180](#), art. 2(e)(iv); and inserted (N.I.) (2.11.2015 for specified purposes) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 19\(2\)](#); [S.R. 2015/358](#), art. 2(m)(viii)

**F463** Words in s. 126 substituted (E.W.N.I.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 1 para. 6\(7\)](#)

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- (a); and (S.) (1.4.2013) by **Police and Fire Reform (Scotland) Act 2012** (asp 8), s. 129(2), **sch. 7 para. 14(8)(a)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F464** Words in s. 126(1) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(a)(b)**; S.R. 2001/396, art. 2, **Sch.**
- F465** Words in s. 126(1) inserted (E.W.) (1.12.2012) by **The Protection of Freedoms Act 2012** (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **47** (with Pt. 4)
- F466** Words in s. 126(1) inserted (N.I.) (2.11.2015 for specified purposes) by **Justice Act (Northern Ireland) 2015** (c. 9), s. 106(2), **Sch. 5 para. 19(3)**; S.R. 2015/358, art. 2(m)(viii)
- F467** Words in s. 126(1) inserted (S.) (28.2.2011) by **Protection of Vulnerable Groups (Scotland) Act 2007** (asp 14), s. 101(2), **sch. 4 para. 41** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F468** Words in s. 126(1) substituted (E.W.N.I.) (1.4.2013) by **The Police and Fire Reform (Scotland) Act 2012** (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 6(7)(b)**; and (S.) (1.4.2013) by **Police and Fire Reform (Scotland) Act 2012** (asp 8), s. 129(2), **sch. 7 para. 14(8)(b)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F469** Words in s. 126(1) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**
- F470** Words in s. 126(1) inserted (S.) (8.2.2016) by **The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015** (S.S.I. 2015/423), arts. 1(2), **3(6)** (with arts. 5-10, 12)
- F471** S. 126(3) added (N.I.) (12.10.2009) by **The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007** (S.I. 2007/1351), art. 1(3), **Sch. 7 para. 3** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/304, art. 3(a)
- F472** S. 126(3)(4) inserted (1.7.2005 for S., 1.7.2005 for E.W., 3.12.2007 for N.I.) by **Serious Organised Crime and Police Act 2005** (c. 15), **ss. 166(2), 178(4)(d)(8)**; S.S.I. 2005/358, art. 2(d); S.I. 2005/1521, art. 3(3)(c); S.I. 2007/3341, art. 2(c)

#### Commencement Information

- I34** S. 126 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**  
S. 126 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**
- I35** S. 126 in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(I)**

#### Marginal Citations

- M12** 1974 c. 53.  
**M13** S.I. 1978/1908 (N.I. 27).

### [<sup>F473</sup>126ZA] Protected convictions

- (1) For the purposes of this Part a conviction is a protected conviction if—
- (a) it is a spent conviction, and
  - (b) either—
    - (i) it is not a conviction for an offence listed in schedule 8A or 8B, or
    - (ii) it is a conviction for an offence listed in schedule 8B and at least one of the conditions specified in subsection (2) is satisfied.
- (2) The conditions are—
- (a) the disposal in respect of the conviction was an admonition or an absolute discharge,
  - (b) the person was aged under 18 on the date of conviction and at least 7 years and 6 months have passed since the date of the conviction,
  - (c) the person was aged 18 or over on the date of conviction and at least 15 years have passed since the date of the conviction.

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) In subsection (2)(a), the reference to an absolute discharge includes a reference to the discharge of the referral of a child's case to a children's hearing under—
- (a) section 69(1)(b) and (12) of the Children (Scotland) Act 1995, or
  - (b) section 91(3)(b), 93(2)(b), 108(3)(b), or 119(3)(b) of the Children's Hearings (Scotland) Act 2011.

#### Textual Amendments

**F473** Ss. 126ZA, 126ZB inserted (S.) (8.2.2016) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial \(No. 2\) Order 2015 \(S.S.I. 2015/423\)](#), arts. 1(2), **3(7)** (with arts. 5-10, 12)

### 126ZB Offences in schedules 8A and 8B

- (1) The Scottish Ministers may by regulations modify schedule 8A or 8B.
- (2) Regulations under subsection (1) are subject to the affirmative procedure.]

#### Textual Amendments

**F473** Ss. 126ZA, 126ZB inserted (S.) (8.2.2016) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial \(No. 2\) Order 2015 \(S.S.I. 2015/423\)](#), arts. 1(2), **3(7)** (with arts. 5-10, 12)

### <sup>F474</sup>126A Part 5: Modifications for Northern Ireland

- (1) This Part applies to Northern Ireland subject to the following modifications.
- (2) Any reference to the Secretary of State, except in—
  - (a) section 118(2A)(d),
  - (b) [<sup>F475</sup>section 119(1), (3), (5) and (8),]
  - (c) section 119B(2), (4) and (4A), and
  - (d) section 122A as it applies to a function of the Secretary of State under [<sup>F476</sup>section 119 or] 119B(2), (4) or (4A),
 shall be construed as a reference to the Department of Justice in Northern Ireland.
- (3) [<sup>F477</sup>Section 119 has effect subject to the following modifications—
  - (a) in subsection (1), in relation to a relevant function within subsection (8)(a) or (b), any reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland;
  - (b) in subsection (3), except in relation to a request for the purposes of the provision of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that corresponds to section 24 of the Safeguarding Vulnerable Groups Act 2006, any reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland;
  - (c) subsections (5) and (8) have effect as if any reference to the Secretary of State included a reference to the Department of Justice in Northern Ireland.]
- (4) The following provisions shall not have effect—
  - (a) section 113A(8);

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- (b) in section 113BC—
    - (i) in subsection (1) the words “made by statutory instrument”;
    - (ii) subsection (2);
  - (c) in section 120A—
    - (i) in subsection (7) the words “made by statutory instrument”;
    - (ii) subsection (8);
  - (d) section 125(2), (4) and (6).
- (5) In section 122 any reference to Parliament shall be construed as a reference to the Northern Ireland Assembly.
- (6) In relation to the delegation of any function of the Department of Justice, any reference in section 122A to Parliament shall be construed as a reference to the Northern Ireland Assembly.
- (7) Any power of the Department of Justice under this Part to make orders or regulations shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (8) No order shall be made by the Department of Justice under section 113A(7) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (9) Any other order or regulations made under this Part by the Department of Justice shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).
- (10) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of this Part in relation to the laying of anything before the Northern Ireland Assembly as it applies in relation to the laying of a statutory document under an enactment.]

#### Textual Amendments

- F474** S. 126A inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 38** (with arts. 28-31)
- F475** S. 126A(2)(b) omitted (E.W.) (1.12.2012) by virtue of [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **53(a)** (with Pt. 4)
- F476** Words in s. 126A(2)(d) omitted (E.W.) (1.12.2012) by virtue of [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **53(b)** (with Pt. 4)
- F477** S. 126A(3) omitted (E.W.) (1.12.2012) by virtue of [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **53(a)** (with Pt. 4)

## 127 Saving: disclosure of information and records.

Nothing in sections 112 to 119 shall be taken to prejudice any power which exists apart from this Act to disclose information or to make records available.

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

- I36** S. 127 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**  
S. 127 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**
- I37** S. 127 in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(m)**

## PART VI

### MISCELLANEOUS

#### *Amendments of Police Act 1996*

#### **128 Regulations for special constables and police cadets.**

- (1) In section 51 of the <sup>M14</sup>Police Act 1996 (regulations for special constables), after subsection (3) there shall be inserted—

“(3A) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, police authorities, chief officers of police or other persons, or
- (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.”.

- (2) In section 52 of that Act (regulations for police cadets) after subsection (1) there shall be inserted—

“(1A) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, police authorities, chief officers of police or other persons, or
- (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.”.

#### Marginal Citations

- M14** 1996 c. 16.

#### **129 Change of name or description of certain police areas.**

In Schedule 1 to the Police Act 1996 (police areas for England and Wales except London)—

- (a) in the entry in the first column for “Humberside” there shall be substituted “Humber”;
- (b) in the entry in the second column opposite the name of the Dyfed Powys police area for “Cardiganshire” there shall be substituted “Ceredigion”;

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- (c) for the entry in that column opposite the name of the North Wales police area there shall be substituted—

“The counties of the Isle of Anglesey, Gwynedd, Denbighshire and Flintshire and the county boroughs of Conwy and Wrexham.”;

- (d) in the entry in that column opposite the name of the South Wales police area for “Neath and Port Talbot” there shall be substituted “ Neath Port Talbot ”.

**Commencement Information**

**138** S. 129 partly in force; S. 129 not in force at Royal Assent see s. 135; s.129(b)(c) and (d) in force (25.6.1997) by S.I. 1997/1377, art. 2

*Amendments of Police Act (Northern Ireland) 1970*

<sup>F478</sup>**130** .....

**Textual Amendments**

**F478** S. 130 repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), Sch. 6 (with Sch. 5 para. 1); S.R. 1999/176, art. 3

<sup>F479</sup>**131** .....

**Textual Amendments**

**F479** S. 131 repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), Sch. 6 (with Sch. 5 para. 1); S.R. 1999/176, art. 3

<sup>F480</sup>**132** .....

**Textual Amendments**

**F480** S. 132 repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), Sch. 6 (with Sch. 5 para. 1); S.R. 1999/176, art. 3

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PROSPECTIVE

### Rehabilitation of Offenders

#### 133 Rehabilitation of Offenders.

The following provisions (which restrict the effect of the <sup>M15</sup>Rehabilitation of Offenders Act 1974 and the <sup>M16</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978) shall cease to have effect—

- (a) section 189 of, and Schedule 14 to, the <sup>M17</sup>Financial Services Act 1986;
- (b) section 95 of the <sup>M18</sup>Banking Act 1987;
- (c) section 39 of the <sup>M19</sup>Osteopaths Act 1993;
- (d) section 19 of the <sup>M20</sup>National Lottery etc. Act 1993;
- (e) section 40 of the <sup>M21</sup>Chiropractors Act 1994.

#### Marginal Citations

- M15** 1974 c. 53.  
**M16** S.I. 1978/1908 (N.I. 27).  
**M17** 1986 c. 60.  
**M18** 1987 c. 22.  
**M19** 1993 c. 21.  
**M20** 1993 c. 39.  
**M21** 1994 c. 17.

## PART VII

### GENERAL

#### [<sup>F481</sup>133A Meaning of “prevention” and “detection”].

Section 81(5) of the Regulation of Investigatory Powers Act 2000 (meaning of “prevention” and “detection”) shall apply for the purposes of this Act as it applies for the purposes of the provisions of that Act not contained in Chapter I of Part I.]

#### Textual Amendments

- F481** S. 133A inserted (25.9.2000) by 2000 c. 23, s. 82(1), Sch. 4 para. 8(13) (with s. 82(3)); S.I. 2000/2543, art. 2

#### 134 Amendments and repeals.

- (1) Schedule 9 (minor and consequential amendments) shall have effect.
- (2) The enactments mentioned in Schedule 10 are hereby repealed to the extent specified in the third column of that Schedule.



**Status:** Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.

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### Commencement Information

**I39** S. 134 partly in force; s. 134 not in force at Royal Assent, see s. 135(1); s. 134 in force for certain purposes at: 23.7.1997 by S.I. 1997/1377, art. 4(2)(o); 1.9.1997 by S.I. 1997/1930, art. 2(2)(w); 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7)); 1.4.1998 by S.I. 1998/354, art. 2; 1.3.2002 for E.W. by S.I. 2002/413, art. 2

## 135 Commencement.

- (1) The preceding provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (2) An order under this section may—
  - (a) appoint different days for different purposes or different areas, and
  - (b) make transitional provision and savings (including provision modifying this Act).
- (3) An order under this section may, in relation to Part I, II or IV make provision—
  - (a) for the transfer and apportionment of property and for the transfer, apportionment and creation of rights and liabilities;
  - (b) for the transfer of members of police forces in Great Britain, members of the <sup>F482</sup>Police Service of Northern Ireland] and other persons;
  - (c) for the Secretary of State, or any other person nominated by or in accordance with the order, to determine any matter requiring determination under or in consequence of the order;
  - (d) as to the payment of fees charged, or expenses incurred, by any person nominated to determine any matter by virtue of paragraph (c).
- (4) Any day appointed by an order under this section for the coming into force of section 93, 94 or 95 of this Act shall not be earlier than the day on which a code of practice issued under section 101 comes into operation.
- (5) A statutory instrument containing provisions made by virtue of subsection (2)(b) or (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Subordinate Legislation Made

**P1** S. 135 power partly exercised: different dates appointed for specified provisions by S.I. 1997/1377  
S. 135 power partly exercised: 22.2.1999 appointed for specified provisions by S.I. 1999/151, art. 2  
S. 135 power partly exercised: different dates appointed for specified provisions by S.S.I. 2001/482, art. 2  
S. 135 power partly exercised: 1.3.2002 appointed for specified provisions by {S.I. 2002/413}, art. 2

**P2** S. 135(1)(2)(a) power partly exercised: different dates appointed for specified provisions by {S.S.I. 2002/124}, arts. 3-5

### Textual Amendments

**F482** Words in s. 135(3)(b) substituted (4.11.2001) by 2000 c. 32, s. 78(1), Sch. 6 para. 20(2)(b); S.R. 2001/396, art. 2, Sch.

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### 136 Police: co-operation on implementation.

It shall be the duty of police authorities for areas in Great Britain, and the [<sup>F483</sup>Northern Ireland Policing Board], and their staff to co-operate with each other, and generally to exercise their functions, so as to facilitate the implementation of Parts I and II of this Act and any transfer of property or staff made by an order under section 135.

#### Textual Amendments

**F483** Words in s. 136 substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**

### 137 Extent.

- (1) Subject to subsections (2) to (4), this Act extends throughout the United Kingdom.
- (2) The following provisions of this Act extend to England and Wales only—
  - (a) Part II;
  - <sup>F484</sup>(b) .....
  - <sup>F485</sup>(c) .....
  - <sup>F486</sup>(d) .....
  - (e) sections 128 and 129.
- <sup>F487</sup>(3) .....
- (4) The amendments in Schedules 6 and 9, and the repeals in Schedule 10, have the same extent as the enactments to which they refer.

#### Textual Amendments

- F484** S. 137(2)(b) repealed (1.4.2006) by **Serious Organised Crime and Police Act 2005** (c. 15), s. 178(8), **Sch. 4 para. 105**, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), **Sch. paras. 10, 13(dd)**
- F485** S. 137(2)(c) repealed (1.4.2006) by **Serious Organised Crime and Police Act 2005** (c. 15), s. 178(8), **Sch. 4 para. 105**, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), **Sch. paras. 10, 13(dd)**
- F486** S. 137(2)(d) repealed (1.8.2001) by 2001 c. 16, s. 137, **Sch. 7 Pt. 5(1)**; S.I. 2001/2223, **art. 3(j)(i)(ii)**
- F487** S. 137(3) repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), **Sch. 6** (with **Sch. 5 para. 1**); S.R. 1999/176, **art. 3**

### 138 Short title.

This Act may be cited as the Police Act 1997.

**Status:** Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.

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## SCHEDULES

### F488 SCHEDULE 1

Sections 1(7) and 47(7).

#### Textual Amendments

**F488** Schs. 1-2A repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 4 para. 106, Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd)

### F488 SCHEDULE 2

Sections 1(7) and 47(7).

### F488 SCHEDULE 2A

#### FURTHER PROVISIONS ABOUT SERVICE AUTHORITIES

##### *Powers*

1 .....

##### *Committees*

2 .....

##### *Proceedings*

3 .....

PROSPECTIVE

F488 4 .....

##### *Arrangements for discharge of functions by Service Authorities*

5 .....

6 .....

7 .....

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8 .....

*Interpretation*

9 .....

<sup>F489</sup>SCHEDULE 3

Section 17(6).

.....

**Textual Amendments**

**F489** Sch. 3 (paras. 1-5) repealed (1.8.2001) by 2001 c. 16, s. 137, **Sch. 7 Pt. 5(1)**; S.I. 2001/2223, **art. 3(j)(i)(ii)**

<sup>F494</sup>SCHEDULE 4

Section 44(1).

.....

**Textual Amendments**

**F494** Sch. 4 repealed (1.4.2002) by 2001 c. 16, s. 137, **Sch. 7 Pt. 5(1)**; S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

<sup>F495</sup>SCHEDULE 5

Section 62(6).

.....

**Textual Amendments**

**F495** Sch. 5 (paras. 1-5) repealed (1.8.2001) by 2001 c. 16, s. 137, **Sch. 7 Pt. 5(1)**; S.I. 2001/2323, **art. 3(l)(ii)**

SCHEDULE 6

Section 88.

APPLICATION TO NCS SERVICE AUTHORITY OF LOCAL GOVERNMENT ENACTMENTS

*Local Government Act 1972 (c. 70)*

1 <sup>F500</sup> .....

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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**Textual Amendments**

**F500** Sch. 6 para. 1 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4); and that same provision expressed to be repealed by 2000 c. 22, ss. 107(2), 108(3)(c)(vii), Sch. 6

2 **F501** .....

**Textual Amendments**

**F501** Sch. 6 para. 2 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4); and that same provision expressed to be repealed by 2000 c. 22, ss. 107(2), 108(3)(c)(vii), Sch. 6

3 **F502** .....

**Textual Amendments**

**F502** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

4 **F503** .....

**Textual Amendments**

**F503** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

- 5 (1) Section 107 (application to police authorities of provisions relating to the discharge of functions by local authorities) shall be amended as follows.
- (2) In subsection (7) for “(a) and (b)” there shall be substituted “ (a), (aa) and (b) ”.
- (3) **F504** .....

**Textual Amendments**

**F504** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

- 6 (1) Section 146A (application to police authorities of miscellaneous powers of local authorities) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “subsection (1A)” there shall be substituted “ subsections (1A) and (1AA) ”, and
  - (b) for “shall be” there shall be substituted “ and the Service Authority for the National Crime Squad shall each be ”.
- (3) In subsection (1A)—
- (a) for “A” there shall be substituted “ Neither a ”,

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- (b) F505 .....
- (c) the word “not” shall be omitted.

(4) F505 .....

**Textual Amendments**

**F505** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

**Commencement Information**

**I40** Sch. 6 para. 6 wholly in force at 31.10.1997; Sch. 6 para. 6 not in force at Royal Assent, see s. 135; Sch. 6 para. 6 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7))

7 In section 223 (appearance of local authorities in legal proceedings), in subsection (2), after “1996” there shall be inserted “ and the Service Authority for the National Crime Squad ”.

8 F506 .....

**Textual Amendments**

**F506** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

9 F507 .....

**Textual Amendments**

**F507** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

10 F508 .....

**Textual Amendments**

**F508** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

*Local Government Act 1974 (c. 7)*

11 F509 .....

**Textual Amendments**

**F509** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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*Local Government (Miscellaneous Provisions) Act 1976 (c. 57)*

12 F510 .....

**Textual Amendments**

**F510** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

13 F511 .....

**Textual Amendments**

**F511** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

*Local Government, Planning and Land Act 1980 (c. 65)*

14 F512 .....

**Textual Amendments**

**F512** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

15 F513 .....

**Textual Amendments**

**F513** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

16 F514 .....

**Textual Amendments**

**F514** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

*Local Government (Miscellaneous Provisions) Act 1982 (c. 30)*

17 F515 .....

**Textual Amendments**

**F515** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

18 F516 .....

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**Textual Amendments**

**F516** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in art. 4)

*Local Government Finance Act 1982 (c. 32)*

**F517** 19 .....

**Textual Amendments**

**F517** Sch. 6 para. 19 repealed (11.9.1998 for E.W., 1.4.2002 otherwise) by 1998 c. 18, ss. 54(3), 55(2), Sch. 5 and 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in art. 4)

**F518** 20 .....

**Textual Amendments**

**F518** Sch. 6 para. 20 repealed (11.9.1998 for E.W., 1.4.2002 otherwise) by 1998 c. 18, ss. 54(3), 55(2), Sch. 5 and 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in art. 4)

**F519** 21 .....

**Textual Amendments**

**F519** Sch. 6 para. 21 repealed (11.9.1998 for E.W., 1.4.2002 otherwise) by 1998 c. 18, ss. 54(3), 55(2), Sch. 5 and 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in art. 4)

**F520** 22 .....

**Textual Amendments**

**F520** Sch. 6 para. 22 repealed (11.9.1998 for E.W., 1.4.2002 otherwise) by 1998 c. 18, ss. 54(3), 55(2), Sch. 5 and 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in art. 4)

*Local Government Act 1986 (c. 10)*

23 **F521** .....

**Textual Amendments**

**F521** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in art. 4)

24 **F522** .....



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**Textual Amendments**

**F522** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

PROSPECTIVE

*Local Government Act 1988 (c. 9)*

25 **F523** .....

**Textual Amendments**

**F523** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

26 **F524** .....

**Textual Amendments**

**F524** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

*Local Government Finance Act 1988 (c. 41)*

27 **F525** .....

**Textual Amendments**

**F525** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

28 **F526** .....

**Textual Amendments**

**F526** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

*Local Government and Housing Act 1989 (c. 42)*

29 In section 21 of the Local Government and Housing Act 1989, in subsection (1) (definition of local authority for purposes of various provisions relating to their members, officers, staff and committees etc.), in paragraph (g), after “1996” there shall be inserted “ or the Service Authority for the National Crime Squad ”.

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**Commencement Information**

**I41** Sch. 6 para. 29 wholly in force at 31.10.1997; Sch. 6 para. 29 not in force at Royal Assent, see s. 135; Sch. 6 para. 29 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

30 **F527** .....

**Textual Amendments**

**F527** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

31 **F528** .....

**Textual Amendments**

**F528** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

32 **F529** .....

**Textual Amendments**

**F529** Sch. 6 (other than paras. 5(1)(2), 6(1)(2)(3)(a)(c), 7, 29) repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

**F530** SCHEDULE 7

**Textual Amendments**

**F530** Sch. 7 repealed (25.9.2000) by 2000 c. 23, ss. 70(2)(c), 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2** (and by art. 6(1) of that S.I. the repeal is expressed to be brought into force at 2.10.2000 subject to the provisions of art. 6(2)-(5))

**F532** SCHEDULE 8

Section 109(2).

**Status:** Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.

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#### Textual Amendments

**F532** Sch. 8 repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), [Sch. 15 Pt. 1\(A\)](#); S.I. 2007/709, art. 3(q) (with art. 6)

## [<sup>F533</sup>SCHEDULE 8A

### OFFENCES WHICH MUST ALWAYS BE DISCLOSED

#### Textual Amendments

**F533** Schs. 8A, 8B inserted (S.) (8.2.2016) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial \(No. 2\) Order 2015 \(S.S.I. 2015/423\)](#), arts. 1(2), [3\(8\)](#) (with arts. 5-10, 12)

#### *Common law offences*

1. Abduction.
2. Abortion.
3. Assault to the danger of life.
4. Assault to severe injury.
5. Assault with intent to rape or ravish.
6. Assault with intent to commit the statutory offence of rape.
7. Bestiality.
8. Cruel and unnatural treatment of persons.
9. Culpable homicide.
10. Drugging.
11. Extortion.
12. Hamesucken.
13. Hijacking.
14. Piracy.
15. Plagium.
16. Reset of plagium.
17. Treason.
18. Uttering threats.

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### *Statutory offences*

#### *Armed forces*

19. An offence under section 42 of the Armed Forces Act 2006 (criminal conduct) where the corresponding offence under the law of England and Wales is, or corresponds to, an offence listed in this schedule.

#### *Aviation and maritime*

20. An offence under the Piracy Act 1837.
21. An offence under any of the following provisions of the Aviation Security Act 1982—
- (a) section 1 (hijacking);
  - (b) section 2 (destroying, damaging or endangering safety of aircraft);
  - (c) section 3 (other acts endangering or likely to endanger safety of aircraft); and
  - (d) section 4 (offences in relation to certain dangerous articles).
22. An offence under section 9 of the Aviation and Maritime Security Act 1990 (hijacking of ships).
- [<sup>F534</sup>23. An offence under article 265 of the Air Navigation Order 2016 in respect of a contravention of article 240 of that Order (endangering safety of aircraft).]

#### **Textual Amendments**

**F534** Sch. 8A para. 23 substituted (25.8.2016) by [The Air Navigation Order 2016 \(S.I. 2016/765\)](#), art. 1, [Sch. 14 para. 2\(b\)](#) (with arts. 17-23, 274(2)-(4))

#### **Textual Amendments**

**F534** Sch. 8A para. 23 substituted (25.8.2016) by [The Air Navigation Order 2016 \(S.I. 2016/765\)](#), art. 1, [Sch. 14 para. 2\(b\)](#) (with arts. 17-23, 274(2)-(4))

#### *Children*

24. An offence under section 12 of the Children and Young Persons (Scotland) Act 1937 (cruelty to persons under 16).

#### *Explosives*

25. An offence under the Explosive Substances Act 1883.

#### *Firearms and other weapons*

26. An offence under any of the following provisions of the Firearms Act 1968—
- (a) section 4 (conversion of weapons);
  - (b) section 5 (weapons subject to a general prohibition);
  - (c) section 16 (possession of firearm with intent to injure);

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- (d) section 16A (possession of firearm with intent to cause fear or violence);
- (e) section 17 (use of firearm to resist arrest);
- (f) section 18 (carrying firearm with criminal intent);
- (g) section 19 (carrying firearm in a public place);
- (h) section 20 (trespassing with firearm);
- (i) section 21 (possession of firearm by persons previously convicted of crime);
- (j) section 24 (supplying firearms to minors);
- (k) section 25 (supplying firearm to person drunk or insane);
- (l) section 28A(7) (certificates: supplementary);
- (m) section 29 (variation of firearm certificates);
- (n) section 30D(3) (revocation of certificates: supplementary);
- (o) section 39 (offences in connection with registration);
- (p) section 40 (compulsory register of transactions in firearms);
- (q) section 46(5) (power of search with warrant);
- (r) section 47 (powers of constables to stop and search); and
- (s) section 48 (production of certificates).

27. An offence under the Chemical Weapons Act 1996.

#### *Forced marriage*

28. An offence under section 122 of the Anti-social Behaviour, Crime and Policing Act 2014 (offence of forced marriage: Scotland).

#### *Human trafficking and exploitation*

29. An offence under section 22 of the Criminal Justice (Scotland) Act 2003 (traffic in prostitution etc.).

30. An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).

31. An offence under section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (slavery, servitude and forced or compulsory labour).

32. An offence under the Prohibition of Female Genital Mutilation (Scotland) Act 2005.

#### *Medical professions etc.*

33. An offence under section 10Z9 of the National Health Service (Scotland) Act 1978 (offences in relation to registration).

34. An offence under any of the following provisions of the Medical Act 1983—

- (a) section 49 (penalty for pretending to be registered); and
- (b) section 49A (penalty for pretending to hold a licence to practise).

35. An offence under article 38 (offences relating to the Register) of the Pharmacy Order 2010.

#### *Medicines*

36. An offence under any of the following provisions of the Medicines Act 1968—

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- (a) section 67(1A) and (1B) (offences under Part III); and
- (b) section 78 (restrictions on use of titles, descriptions and emblems).

#### *Official Secrets Acts*

37. An offence under the Official Secrets Act 1911.

#### *Prostitution*

38. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—
- (a) section 7 (procuring);
  - (b) section 11 (trading in prostitution and brothel-keeping); and
  - (c) section 12 (allowing child to be in brothel).

#### *Road traffic*

39. An offence under any of the following provisions of the Road Traffic Act 1988—
- (a) section 1 (causing death by dangerous driving);
  - (b) section 3ZC (causing death by driving: disqualified drivers); and
  - (c) section 3A (causing death by careless driving when under influence of drink or drugs).

#### *Serious organised crime*

40. An offence under any of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010—
- (a) section 28 (involvement in serious organised crime);
  - (b) section 30 (directing serious organised crime); and
  - (c) section 31 (failure to report serious organised crime).

#### *Sexual offences*

41. An offence under section 50(3) of the Customs and Excise Management Act 1979 (penalty for improper importation of goods) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876, but only where the prohibited goods include indecent photographs of persons.
42. A sexual offence within the meaning given by section 210A(10) of the Criminal Procedure (Scotland) Act 1995 other than an offence mentioned in paragraph (xxvii)(ZF) or (ZG) of that section (engaging while an older child in sexual conduct with or towards another older child).
43. An offence under section 113 of the Sexual Offences Act 2003 (breach of sexual offences prevention order or interim sexual offences prevention order, etc.).
44. An offence under section 7 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (offence: breach of RSHO or interim RSHO etc.).

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### *Stalking and harassment*

45. An offence under section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 (racially aggravated harassment).
46. An offence under any of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010—
  - (a) section 38 (threatening or abusive behaviour); and
  - (b) section 39 (offence of stalking).

### *Terrorism*

47. An offence under any of the following provisions of the Terrorism Act 2000—
  - (a) section 11 (membership);
  - (b) section 12 (support);
  - (c) section 15 (fund-raising);
  - (d) section 16 (use and possession);
  - (e) section 17 (funding arrangements);
  - (f) section 17A(2) or (4) (insurance payments made in response to terrorist demands);
  - (g) section 18 (money laundering);
  - (h) section 19 (disclosure of information: duty);
  - (i) section 21A (failure to disclose: regulated sector);
  - (j) section 21D (tipping off: regulated sector);
  - (k) section 38B (information about acts of terrorism);
  - (l) section 39 (disclosure of information, &c.);
  - (m) section 54 (weapons training);
  - (n) section 56 (directing terrorist organisation);
  - (o) section 57 (possession for terrorist purposes);
  - (p) section 58 (collection of information);
  - (q) section 58A (eliciting, publishing or communicating); and
  - (r) section 61 (inciting terrorism overseas);
48. An offence under any of the following provisions of the Anti-terrorism, Crime and Security Act 2001—
  - (a) section 47 (use etc. of nuclear weapons);
  - (b) section 50 (assisting or inducing certain weapons-related acts overseas);
  - (c) section 52 (powers of entry);
  - (d) section 54 (offences);
  - (e) section 67 (offences);
  - (f) section 79 (prohibition of disclosures relating to nuclear security);
  - (g) section 80 (prohibition of disclosures of uranium enrichment technology);
  - (h) section 113 (use of noxious substances or things to cause harm and intimidate);
  - (i) section 114 (hoaxes involving noxious substances or things); and
  - (j) paragraph 7 of Schedule 3 (offences).
49. An offence under the Terrorism Act 2006.

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50. An offence under any of the following provisions of the Counter-Terrorism Act 2008—
- (a) section 2 (offence of obstruction);
  - (b) section 54 (offences relating to notification);
  - (c) paragraph 15 of Schedule 5 (breach of foreign travel restriction order and offence);
  - (d) paragraph 30 of Schedule 7 (offences: failure to comply with requirement imposed by direction);
  - (e) paragraph 30A of Schedule 7 (offences: relevant person circumventing requirements); and
  - (f) paragraph 31 of Schedule 7 (offences in connection with licences).

*Violent offender orders*

51. An offence under section 113(1) of the Criminal Justice and Immigration Act 2008 (breach of violent offender order or interim violent offender order).

*Vulnerable persons*

52. An offence under section 83 of the Adults with Incapacity (Scotland) Act 2000 (offence of ill-treatment and wilful neglect).
53. An offence under section 315 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (ill-treatment and wilful neglect of mentally disordered person).
54. An offence under any of the following provisions of the Protection of Vulnerable Groups (Scotland) Act 2007—
- (a) section 34 (barred individuals not to do regulated work);
  - (b) section 35 (organisations not to use barred individuals for regulated work); and
  - (c) section 36 (personnel suppliers not to supply barred individuals for regulated work).
55. Any offence where the conduct in respect of which the person was convicted also constituted a breach of a banning order granted under section 19 of the Adult Support and Protection (Scotland) Act 2007 (banning orders).

*Witness protection*

56. An offence under any of the following provisions of the Serious Organised Crime and Police Act 2005—
- (a) section 86 (offence of disclosing information about protection arrangements); and
  - (b) section 88 (offences of disclosing information relating to persons assuming new identity).

*Statutory aggravations*

57. An offence in relation to which either of the following provisions apply—
- (a) section 29(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (offences aggravated by connection with serious organised crime); or



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- (b) section 31 of the Counter-Terrorism Act 2008 (offences aggravated by terrorism).

*Other*

*Common law aggravations*

58. An offence, the conviction for which indicates that it was committed against a child.  
59. An offence, the conviction for which indicates that it included a sexual element.

*Inchoate offences*

60. An offence committed by aiding, abetting, counselling, procuring or inciting the commission of the offence of murder or any offence listed in paragraphs 1 to 59 of this schedule.  
61. An offence committed by attempting or conspiring to commit the offence of murder or any offence listed in paragraphs 1 to 59 of this schedule.

*Superseded offences*

62. An offence superseded (whether directly or indirectly) by any offence listed in paragraphs 1 to 61 of this schedule (and any qualification in relation to a listed offence applies to the superseded offence as it applies to the listed offence).

*Combined offences*

63. An offence which was charged, and the conviction for which was received, in conjunction with any offence listed in paragraphs 1 to 62 of this schedule.

*Corresponding offences elsewhere in the UK or abroad*

64. An offence under the law of England and Wales or Northern Ireland, or any country or territory outside the United Kingdom, which corresponds to any offence listed in paragraphs 1 to 63 of this schedule.

[<sup>F535</sup>SCHEDULE 8A

REVIEW OF CRIMINAL RECORD CERTIFICATES

**Textual Amendments**

**F535** Sch. 8A inserted (N.I.) (1.3.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 4](#); [S.R. 2015/418](#), art. 3(b)

*Interpretation*

1 In this Schedule—

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“conviction” and “spent conviction” have the same meanings as in the Rehabilitation of Offenders (Northern Ireland) Order 1978;

“the independent reviewer” means the person appointed under paragraph 2;

“other disposal”, in relation to a criminal record certificate or enhanced criminal record certificate issued to any person, means any caution, diversionary youth conference or informed warning relating to that person of which details are given in the certificate.

#### *The independent reviewer*

- 2
- (1) There is to be an independent reviewer for the purposes of this Schedule.
  - (2) The independent reviewer is a person appointed by the Department—
    - (a) for such period, not exceeding 3 years, as the Department decides; and
    - (b) on such terms as the Department decides.
  - (3) A person may be appointed for a further period or periods.
  - (4) The Department may terminate the appointment of the independent reviewer before the end of the period mentioned in sub-paragraph (2)(a) by giving the independent reviewer notice of the determination not less than 3 months before it is to take effect.
  - (5) The Department may—
    - (a) pay such remuneration or allowances to the independent reviewer as it may determine;
    - (b) make arrangements for the provision of administrative or other assistance to the independent reviewer.
  - (6) The independent reviewer must, in relation to each financial year and no later than 3 months after the end of that year, make a report to the Department about the exercise of his or her functions under this Schedule in that year.
  - (7) The independent reviewer may make recommendations to the Department as to—
    - (a) any guidance issued by the Department under paragraph 3 or which the independent reviewer thinks it would be appropriate for the Department to issue under that paragraph;
    - (b) any changes to any statutory provision which the independent reviewer thinks may be appropriate.
  - (8) A person may at the same time hold office as the independent reviewer and as the independent monitor under section 119B.

#### *Guidance*

- 3
- The Department may from time to time publish guidance to the independent reviewer as to the exercise of functions under this Schedule; and in exercising functions under this Schedule the independent reviewer must have regard to any guidance for the time being published under this paragraph.

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*Application for review after issue of certificate*

- 4 (1) A person who receives a criminal record certificate or an enhanced criminal record certificate may apply in writing to the Department for a review of the inclusion in that certificate of—
- (a) the details of any spent conviction; or
  - (b) the details of any other disposal.
- (2) An application under this paragraph must—
- (a) be accompanied by such fee (if any) as may be prescribed; and
  - (b) be made within such period after the issue of the certificate as the Department may specify in a notice accompanying the certificate.
- (3) The Department must refer any application under this paragraph to the independent reviewer together with—
- (a) any information supplied by the applicant in connection with the application; and
  - (b) any other information which appears to the Department to be relevant to the application.

*Review by independent reviewer after issue of certificate*

- 5 (1) The independent reviewer, on receiving an application under paragraph 4 in relation to a certificate, must review the inclusion in that certificate of—
- (a) the details of any spent conviction; and
  - (b) the details of any other disposal.
- (2) If, following that review, the independent reviewer determines that the details of any spent conviction or other disposal included in the certificate should be removed—
- (a) the independent reviewer must inform the Department of that fact; and
  - (b) on being so informed the Department must issue a new certificate.
- (3) In issuing such a certificate the Department must give effect to the determination of the independent reviewer and must (in the case of an enhanced certificate) again comply with section 113B(4).
- (4) If, following that review, the independent reviewer determines that the details of any spent convictions or other disposals included in the certificate should not be removed—
- (a) the independent reviewer must inform the Department of that fact; and
  - (b) the Department must inform the applicant that the application is refused.
- (5) The independent reviewer must not determine that details of a spent conviction or other disposal should be removed from a certificate unless the independent reviewer is satisfied that the removal of those details would not undermine the safeguarding or protection of children and vulnerable adults or pose a risk of harm to the public.

*Automatic review before issue of certificate containing only  
details of spent convictions or other disposals of person under 18*

- 6 (1) This paragraph applies where—

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- (a) the Department proposes to issue (otherwise than under sub-paragraph (4)(b) or (6)(b)) a criminal record certificate or an enhanced criminal record certificate relating to any person; and
  - (b) the certificate would—
    - (i) contain details of any spent conviction or other disposal which occurred at a time when the person was under the age of 18; but
    - (ii) not contain details of any conviction (whether spent or not) or other disposal occurring after that time.
- (2) The Department must, before issuing the certificate, refer the certificate for review to the independent reviewer together with any information which appears to the Department to be relevant to that review.
- (3) The independent reviewer, on receiving a referral under sub-paragraph (2) in relation to a certificate, must review the inclusion in that certificate of—
- (a) the details of any spent conviction; and
  - (b) the details of any other disposal.
- (4) If, following that review, the independent reviewer determines that the details of any spent conviction or other disposal included in the certificate should be removed—
- (a) the independent reviewer must inform the Department of that fact; and
  - (b) on being so informed the Department must amend the certificate and issue the amended certificate.
- (5) In issuing such a certificate the Department must give effect to the determination of the independent reviewer and must (in the case of an enhanced certificate) again comply with section 113B(4).
- (6) If, following that review, the independent reviewer determines that the details of any spent convictions or other disposals included in the certificate should not be removed—
- (a) the independent reviewer must inform the Department of that fact; and
  - (b) the Department must issue the certificate in the form referred to the independent reviewer.
- (7) The independent reviewer must not determine that details of a spent conviction or other disposal should be removed from a certificate unless the independent reviewer is satisfied that the removal of those details would not undermine the safeguarding or protection of children and vulnerable adults or pose a risk of harm to the public.
- (8) The fact that a review has been carried out under this paragraph before a certificate is issued does not prevent the operation of paragraphs 4 and 5 in relation to the certificate once issued.

*Disclosure of information to the independent reviewer*

7

The Chief Constable, the Department and the Probation Board for Northern Ireland must provide to the independent reviewer such information as the independent reviewer reasonably requires in connection with the exercise of his or her functions under this Schedule.]

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## SCHEDULE 8B

### OFFENCES WHICH ARE TO BE DISCLOSED SUBJECT TO RULES

#### *Common law offences*

1. An offence of perverting, or attempting to pervert, the course of justice (by whatever means and however the offence is described), including in particular—
  - (a) false accusation of a crime;
  - (b) perjury;
  - (c) prevarication on oath;
  - (d) prison breaking; and
  - (e) subornation of perjury.
2. Assault excluding any assault of a kind listed in Schedule 8A.
3. Breach of the peace.
4. Clandestinely taking possession.
5. Culpable and reckless conduct.
6. Culpable and reckless endangering of the public.
7. Culpable and reckless fireraising.
8. Embezzlement.
9. False accusation of a crime.
10. Fraud.
11. Housebreaking with intent to steal.
12. Mobbing and rioting.
13. Opening a lockfast place with intent to steal.
14. Public indecency.
15. Resent (excluding resent of plagium).
16. Robbery.
17. Theft (excluding plagium).
18. Uttering.
19. Wilful fireraising.

#### *Statutory offences*

#### *Adult support and protection*

20. An offence under section 49 of the Adult Support and Protection (Scotland) Act 2007 (obstruction).

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### *Animals*

21. An offence under the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974.
22. An offence under any of the following provisions of the Wildlife and Countryside Act 1981—
  - (a) section 1 (protection of wild birds, their nests and eggs and prevention of poaching);
  - (b) section 5 (prohibition of certain methods of killing or taking wild birds);
  - (c) section 9 (protection of other wild animals and prevention of poaching);
  - (d) section 11 (prohibition of certain methods of killing or taking wild animals);
  - (e) section 11A, 11B and 11C (offences in relation to snares);
  - (f) section 14ZC (prohibition on keeping etc. of invasive animals or plants);
  - (g) section 15A (possession of pesticides); and
  - (h) section 18 (attempts to commit offences etc.), but only in relation to an offence listed in sub-paragraphs (a) to (g) of this paragraph.
23. An offence under the Dangerous Dogs Act 1991.
24. An offence under the Protection of Badgers Act 1992.
25. An offence under any of the following provisions of the Conservation (Natural Habitats, &c.) Regulations 1994—
  - (a) regulation 39 (protection of certain wild animals); and
  - (b) regulation 41 (prohibition of certain methods of taking or killing wild animals).
26. An offence under the Welfare of Animals (Slaughter or Killing) Regulations 1995.
27. An offence under the Wild Mammals Protection Act 1996.
28. An offence under the Protection of Wild Mammals (Scotland) Act 2002.
29. An offence under the Animal Health and Welfare (Scotland) Act 2006.

### *Armed forces*

30. An offence under section 42 of the Armed Forces Act 2006 (criminal conduct) where the corresponding offence under the law of England and Wales is, or corresponds to, an offence listed in this schedule.

### *Assaulting or hindering public officials*

31. An offence under section 89 of the Police Act 1996 (assaults on constables).
32. An offence under section 32 of the Commissioners for Revenue and Customs Act 2005 (assault).
33. An offence under the Emergency Workers (Scotland) Act 2005.
34. An offence under section 85 of the Fire (Scotland) Act 2005 (false alarms).
35. An offence under section 90 of the Police and Fire Reform (Scotland) Act 2012 (assaulting or impeding police).

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### *Aviation*

36. An offence under any of the following provisions of the Aviation Security Act 1982—
- (a) section 20B (detention direction); and
  - (b) section 21FA (air cargo agents: documents).

### *Bomb hoaxes*

37. An offence under section 51 of the Criminal Law Act 1977 (bomb hoaxes).

### *Bribery*

38. An offence under the Bribery Act 2010.

### *Care services*

39. An offence under any of the following provisions of the Regulation of Care (Scotland) Act 2001—
- (a) section 45 (application for registration under Part 3); and
  - (b) section 52 (use of title “social worker” etc.).
40. An offence under any of the following provisions of the Public Services Reform (Scotland) Act 2010—
- (a) section 80(1) (offences in relation to registration under Chapter 3);
  - (b) section 81 (false statements in application under Chapter 3); and
  - (c) section 90 (offences under Chapter 4).
41. An offence under article 27 of the Public Services Reform (General Teaching Council for Scotland) Order 2011 (offences).
42. An offence under regulation 19 of the Social Care and Social Work Improvement (Scotland) (Requirements for Care Services) Regulations 2011 (offences).

### *Charities*

43. An offence under the Charities and Trustee Investment (Scotland) Act 2005.

### *Child Support*

44. An offence under section 50 of the Child Support Act 1991 (unauthorised disclosure of information).

### *Children*

45. An offence under section 6 of the Child Abduction Act 1984 (offence in Scotland of parent, etc. taking or sending child out of United Kingdom).

### *Crossbows*

46. An offence under section 1 of the Crossbows Act 1987 (sale and letting on hire).

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### *Domestic abuse*

47. An offence under section 2 of the Domestic Abuse (Scotland) Act 2011 (breach of domestic abuse interdict with power of arrest).

### *Drugs*

48. An offence under any of the following provisions of the Misuse of Drugs Act 1971—
- (a) section 3 (restriction of importation and exportation of controlled drugs);
  - (b) section 4 (restriction of production and supply of controlled drugs);
  - (c) section 4A (aggravation of offence of supply of controlled drug);
  - (d) section 5(3) (restriction of possession of controlled drugs);
  - (e) section 6 (restriction of cultivation of cannabis plant);
  - (f) section 8(a) and (b) (occupiers etc. of premises to be punishable for certain activities taking place there);
  - (g) section 12 (directions prohibiting prescribing, supply etc. of controlled drugs by practitioners etc. convicted of certain offences);
  - (h) section 13 (directions prohibiting prescribing, supply etc. of controlled drugs by practitioners in other cases);
  - (i) section 17 (power to obtain information from doctors, pharmacists etc. in certain circumstances);
  - (j) section 19 (attempts etc. to commit offences), but only in relation to an offence listed in sub-paragraphs (a) to (i) of this paragraph; and
  - (k) section 20 (assisting in or inducing commission outside United Kingdom of offence punishable under corresponding law).
49. An offence under any of the following provisions of the Customs and Excise Management Act 1979 in relation to goods prohibited to be imported or exported under section 3(1) of the Misuse of Drugs Act 1971 (restriction of importation and exportation of controlled drugs)—
- (a) section 50(2) or (3) (penalty for improper importation of goods);
  - (b) section 68(2) (offences in relation to exportation of prohibited or restricted goods); and
  - (c) section 170 (fraudulent evasion of duty).
50. An offence under the Criminal Justice (International Co-operation) Act 1990.

### *Escape from custody etc.*

51. An offence under section 316 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (inducing and assisting absconding etc.).
52. An offence under section 91 of the Police and Fire Reform (Scotland) Act 2012 (escape from custody).

### *Financial Services*

53. An offence under the Financial Services and Markets Act 2000.
54. An offence under the Financial Services Act 2012.



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### *Fire safety*

55. An offence under section 72(1) or (3) of the Fire (Scotland) Act 2005 (offences).

### *Firearms*

56. An offence under any of the following provisions of the Firearms Act 1968—
- (a) section 1 (requirement of firearms certificate);
  - (b) section 2 (requirement of certificate for possession of shot guns);
  - (c) section 3 (business and other transactions with firearms and ammunition firearms);
  - (d) section 22 (acquisition and possession of firearms by minors); and
  - (e) section 23 (exceptions from section 22(4)).
57. An offence under section 50(5) of the Civic Government (Scotland) Act 1982 (drunk in possession of firearm).
58. An offence under the Firearms (Amendment) Act 1997.
59. An offence under any of the following provisions of the Violent Crime Reduction Act 2006—
- (a) section 28 (using someone to mind a weapon);
  - (b) section 32 (sales of air weapons by way of trade or business to be face to face);
  - (c) section 35 (restriction on sale and purchase of primers); and
  - (d) section 36 (manufacture, import and sale of realistic imitation firearms).

### *Food safety and standards*

60. An offence under any of the following provisions of the Food Safety Act 1990—
- (a) section 7 (rendering food injurious to health); and
  - (b) section 9 (inspection and seizure of suspected food).
61. An offence under regulation 4(b) of the General Food Regulations 2004.

### *Forced marriage*

62. An offence under section 9 of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (offence of breaching order).

### *Fraud and forgery*

63. An offence under the Forgery and Counterfeiting Act 1981.
64. An offence under section 46A of the Criminal Law (Consolidation) (Scotland) Act 1995 (false monetary instruments).
65. An offence under section 49 of the Criminal Justice and Licensing (Scotland) Act 2010 (articles for use in fraud).
66. An offence under section 92 of the Police and Fire Reform (Scotland) Act 2012 (impersonation etc.).

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### *Harassment*

67. An offence under section 234A of the Criminal Procedure (Scotland) Act 1995 (non-harassment orders).
68. An offence under section 9 of the Protection from Harassment Act 1997 (breach of non-harassment order).

### *Immigration, etc.*

69. An offence under any of the following provisions of the Immigration Act 1971—
- (a) section 24 (illegal entry and similar offences);
  - (b) section 24A (deception);
  - (c) section 25 (assisting unlawful immigration to member State);
  - (d) section 25A (helping asylum-seeker to enter United Kingdom);
  - (e) section 25B (assisting entry to United Kingdom in breach of deportation or exclusion order);
  - (f) section 26 (general offences in connection with administration of Act);
  - (g) section 26A (registration card);
  - (h) section 26B (possession of immigration stamp); and
  - (i) section 27 (offences by captains, owners or agents of ships or aircraft).
70. An offence under any of the following provisions of the Immigration and Asylum Act 1999—
- (a) section 105 (false representations);
  - (b) section 106 (dishonest representations);
  - (c) any of the following paragraphs of Schedule 11—
    - (i) paragraph 1 (obtaining certificates of authorisation by false pretences);
    - (ii) paragraph 4 (assaulting a detainee custody officer); and
    - (iii) paragraph 5 (obstructing detainee custody officer); and
  - (d) any of the following paragraphs of Schedule 12—
    - (i) paragraph 3 (failure to submit to a medical examination);
    - (ii) paragraph 4 (assisting detained persons to escape);
    - (iii) paragraph 5 (bringing alcohol into a detention centre); and
    - (iv) paragraph 6 (conveying articles into or out of a detention centre).
71. An offence under section 35 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (deportation or removal: cooperation).
72. An offence under section 21 of the Immigration, Asylum and Nationality Act 2006 (offence).

### *Insolvency*

73. An offence under any of the following provisions of the Insolvency Act 1986—
- (a) section 131 (company's statement of affairs);
  - (b) section 206 (fraud, etc. in anticipation of winding up);
  - (c) section 208 (misconduct in course of winding up);
  - (d) section 216 (restriction on re-use of company names); and
  - (e) section 235 (duty to co-operate with office-holder).

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### *Landmines*

74. An offence under section 2 of the Landmines Act 1998 (prohibited conduct).

### *Medicines*

75. An offence under section 67(2) and (3) (offences under Part III) of the Medicines Act 1968.
76. An offence under any of the following provisions of the Human Medicines Regulations 2012—
- (a) regulation 34(1) (offences: breach of regulations and false information and defence concerning starting materials); and
  - (b) regulation 255(1)(a), (b), (c) or (d) (offences relating to dealings with medicinal products).

### *Mental health*

77. An offence under section 318 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (false statements).

### *Neglect of duty*

78. An offence under Part 4 (shipping: alcohol and drugs) or Part 5 (aviation: alcohol and drugs) of the Railways and Transport Safety Act 2003.
79. An offence under section 22 of the Police and Fire Reform (Scotland) Act 2012 (failure to perform duty).

### *Obscene material etc.*

80. An offence under section 1(1) of the Indecent Displays Act 1981 (indecent displays).
81. An offence under any of the following provisions of the Civic Government (Scotland) Act 1982—
- (a) section 51 (obscene material);
  - (b) section 51A (extreme pornography); and
  - (c) paragraph 19(3) of Schedule 2 (enforcement).
82. An offence under section 85(3) of the Postal Services Act 2000 (prohibition on sending certain articles by post).
83. An offence under section 127(1) of the Communications Act 2003 (improper use of public electronic communications network).

### *Offences in relation to children*

84. An offence under any of the following provisions of the Children and Young Persons (Scotland) Act 1937—
- (a) section 15 (causing or allowing persons under 16 to be used for begging);
  - (b) section 22 (exposing children under seven to risk of burning);
  - (c) section 31(1) (penalties and legal proceedings in respect of general provisions as to employment);

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- (d) section 33 (prohibition of persons under sixteen taking part in performances endangering life or limb); and
  - (e) section 34 (restrictions on training for performances of a dangerous nature).
85. An offence under section 40(1) of the Children and Young Persons Act 1963 (offences).
86. An offence under section 50(2) of the Civic Government (Scotland) Act 1982 (drunk in charge of a child).
87. An offence under section 81 of the Children (Scotland) Act 1995 (offences in connection with orders etc. for the protection of children).
88. An offence under any of the following provisions of the Children’s Hearings (Scotland) Act 2011—
- (a) section 59 (offences); and
  - (b) section 171 (offences related to absconding).

*Offensive behaviour etc.*

89. An offence under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

*Offensive weapons*

90. An offence under the Restriction of Offensive Weapons Act 1959.
91. An offence under section 50(3) (penalty for improper importation of goods) or section 170 (fraudulent evasion of duty) of the Customs and Excise Management Act 1979 in relation to goods prohibited to be imported under—
- (a) section 1(2) of the Restriction of Offensive Weapons Act 1959 (penalties for offences in connection with dangerous weapons); or
  - (b) section 141(4) of the Criminal Justice Act 1988 (offensive weapons).
92. An offence under any of the following provisions of the Criminal Justice Act 1988—
- (a) section 141 (offensive weapons); and
  - (b) section 141A (sale of knives and certain articles with blade or point to persons under eighteen).
93. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—
- (a) section 47 (prohibition of the carrying of offensive weapons);
  - (b) section 48 (search for offensive weapons);
  - (c) section 49 (offence of having in a public place an article with a blade or point);
  - (d) section 49A (offence of having article with blade or point (or offensive weapon) on school premises);
  - (e) section 49C (offence of having offensive weapon etc. in prison); and
  - (f) section 50 (extension of constable’s power to stop, search and arrest without warrant).

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### *Official Secrets Acts*

- 94. An offence under the Official Secrets Act 1920.
- 95. An offence under the Official Secrets Act 1989.

### *Prisons*

- 96. An offence under section 41 of the Prisons (Scotland) Act 1989 (unlawful introduction of tobacco, etc., into prison).

### *Proceeds of crime and money laundering*

- 97. An offence under any of the following provisions of the Proceeds of Crime Act 2002—
  - (a) Part 7 (money laundering);
  - (b) Part 8 (investigations); and
  - (c) section 453A (certain offences in relation to financial investigators).
- 98. An offence under the Proceeds of Crime Act 2002 (External Investigations) Order 2013.
- 99. An offence under the Proceeds of Crime Act 2002 (External Investigations) (Scotland) Order 2015.

### *Prostitution*

- 100. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—
  - (a) section 9 (permitting girl to use premises for intercourse); and
  - (b) section 13(9) (living on earnings of another from male prostitution).
- 101. An offence under the Prostitution (Public Places) (Scotland) Act 2007.

### *Public order*

- 102. An offence under any of the following provisions of the Public Order Act 1986—
  - (a) section 1 (riot);
  - (b) section 2 (violent disorder);
  - (c) section 3 (affray);
  - (d) section 4 (fear or provocation of violence);
  - (e) section 4A (intentional harassment, alarm or distress);
  - (f) section 5 (harassment alarm or distress);
  - (g) section 18 (use of words or behaviour or display of written material);
  - (h) section 19 (publishing or distributing written material);
  - (i) section 20 (public performance of play);
  - (j) section 21 (distributing, showing or playing a recording);
  - (k) section 22 (broadcasting or including programme in cable programme service);
  - (l) section 23 (possession of racially inflammatory material);
  - (m) section 29B (use of words or behaviour or display of written material);
  - (n) section 29C (publishing or distributing written material);

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- (o) section 29D (public performance of play);
- (p) section 29E (distributing, showing or playing recording);
- (q) section 29F (broadcasting or including programme in programme service);  
and
- (r) section 29G (possession of inflammatory material).

#### *Road traffic*

103. An offence under any of the following provisions of the Road Traffic Act 1988—
- (a) section 1A (causing serious injury by dangerous driving);
  - (b) section 2 (dangerous driving);
  - (c) section 2B (causing death by careless, or inconsiderate, driving);
  - (d) section 3ZB (causing death by driving: unlicensed or uninsured drivers);
  - (e) section 3ZD (causing serious injury by driving: disqualified drivers);
  - (f) section 4(1) (driving, or being in charge, when under the influence of drink or drugs);
  - (g) section 5(1)(a) (driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit); and
  - (h) section 178 (taking motor vehicle without authority, etc.).

#### *Sexual offences*

104. An offence under section 37(1) or (4) of the Sexual Offences (Scotland) Act 2009 (older children engaging in sexual conduct with each other).

#### *Solicitors*

105. An offence under the Solicitors (Scotland) Act 1980.

#### *Terrorism*

106. An offence under any of the following provisions of the Terrorism Act 2000—
- (a) section 13 (uniform);
  - (b) section 36 (police powers);
  - (c) section 51 (offences);
  - (d) section 116 (powers to stop and search);
  - (e) paragraph 32 of Schedule 5 (urgent cases); and
  - (f) paragraph 18 of Schedule 7 (offences).

#### *Vets*

107. An offence under any of the following provisions of the Veterinary Surgeons Act 1966—
- (a) section 19 (restriction of practice of veterinary surgery by unqualified persons); and
  - (b) section 20 (prohibition of use of practitioners' titles by unqualified persons).

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### *Miscellaneous statutory offences*

108. An offence under any of the following provisions of the Civic Government (Scotland) Act 1982—
  - (a) section 57 (being in or on building etc. with intent to commit theft);
  - (b) section 58 (convicted thief in possession); and
  - (c) section 60 (powers of search and seizure).
109. An offence under section 22 of the Rent (Scotland) Act 1984 (unlawful eviction and harassment of occupier).
110. An offence under section 85(1) of the Postal Services Act 2000 (prohibition on sending certain articles by post).
111. An offence under any of the following provisions of the Serious Organised Crime and Police Act 2005—
  - (a) section 67 (offences in connection with disclosure notices or search warrants);
  - (b) section 129 (corresponding Scottish offence);
  - (c) section 145 (interference with contractual relationships so as to harm animal research organisation); and
  - (d) section 146 (intimidation of persons connected with animal research organisation).

### *Statutory aggravations*

112. An offence (other than an offence listed in schedule 8A) in relation to which either of the following provisions applies—
  - (a) section 96 of the Crime and Disorder Act 1998 (offences racially aggravated); or
  - (b) section 74 of the Criminal Justice (Scotland) Act 2003 (offences aggravated by religious prejudice).
113. An offence (other than an offence listed in schedule 8A) to which either of the following provisions of the Offences (Aggravation by Prejudice) (Scotland) Act 2009 applies—
  - (a) section 1(1) (prejudice relating to disability); or
  - (b) section 2(1) (prejudice relating to sexual orientation or transgender identity).

### *Other*

### *Common law aggravations*

114. An offence (other than an offence listed in schedule 8A or in paragraph 112 of this schedule), the conviction for which indicates that it included an element of racial prejudice or was racially motivated.
115. An offence (other than an offence listed in schedule 8A or in paragraph 112 of this schedule), the conviction for which indicates that it included an element of religious prejudice or was motivated by religious prejudice.

*Status:* Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### *Inchoate offences*

116. An offence committed by aiding, abetting, counselling, procuring or inciting the commission of any offence listed in paragraphs 1 to 115 of this schedule.
117. An offence committed by attempting or conspiring to commit any offence listed in paragraphs 1 to 115 of this schedule.

### *Superseded offences*

118. An offence superseded (whether directly or indirectly) by any offence listed in paragraphs 1 to 117 of this schedule (and any qualification in relation to a listed offence applies to the superseded offence as it applies to the listed offence).

### *Combined offences*

119. An offence which was charged, and the conviction for which was received, in conjunction with any offence listed in paragraphs 1 to 118 of this schedule.

### *Corresponding offences elsewhere in the UK or abroad*

120. An offence under the law of England and Wales or Northern Ireland, or any country or territory outside the United Kingdom, which corresponds to any offence listed in paragraphs 1 to 119 of this schedule.]

## SCHEDULE 9

Section 134(1).

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### **Extent Information**

**E9** The amendments in Sch. 9 have the same extent as the enactments to which they refer

### *Explosives Act 1875 (c. 17)*

**F536**<sub>1</sub> .....

#### **Textual Amendments**

**F536** Sch. 9 para. 1 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

### *Civil Defence Act 1948 (c. 5)*

**F537**<sub>2</sub> .....



*Status:* Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.  
*Changes to legislation:* Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

**F537** Sch. 9 para. 2 repealed (14.11.2005) by [Civil Contingencies Act 2004 \(c. 36\)](#), s. 34(1), **Sch. 3**; S.I. 2005/2040, art. 3(r)

*Public Records Act 1958 (c. 51)*

3 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part II of the Table at the end of paragraph 3 there shall be inserted at the appropriate place—

“Police Information Technology Organisation”.

*Trustee Investments Act 1961 (c. 62)*

F538<sub>4</sub> .....

**Textual Amendments**

**F538** Sch. 9 paras. 4-6 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

F538<sub>5</sub> .....

**Textual Amendments**

**F538** Sch. 9 paras. 4-6 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Offices, Shops and Railway Premises Act 1963 (c. 41)*

F538<sub>6</sub> .....

**Textual Amendments**

**F538** Sch. 9 paras. 4-6 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Parliamentary Commissioner Act 1967 (c. 13)*

F539<sub>7</sub> .....

**Textual Amendments**

**F539** Sch. 9 para. 7 repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), **Sch. 15 Pt. 1(A)**; S.I. 2007/709, art. 3(q) (with art. 6)

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Police (Scotland) Act 1967 (c. 77)*

- 8           The Police (Scotland) Act 1967 shall be amended as follows.
- 9           In section 27(3) (regulations as to police cadets), after “(1A),” there shall be inserted “(2B),”.
- 10          At the end of section 28 (regulations as to standards of equipment) (which becomes subsection (1))<sup>F540</sup> ...

**Textual Amendments**  
**F540** Words in Sch. 9 para. 10 repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), [Sch. 15 Pt. 1\(A\)](#); [S.I. 2007/709](#), art. 3(q) (with art. 6)

<sup>F541</sup>11 .....

**Textual Amendments**  
**F541** Sch. 9 para. 11 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2006/378](#), art. 4(1), Sch. para. 13(dd)

<sup>F542</sup>12 .....

**Textual Amendments**  
**F542** Sch. 9 para. 12 repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), [Sch. 15 Pt. 1\(A\)](#); [S.I. 2007/709](#), art. 3(q) (with art. 6)

- 13          In section 38 (constables engaged on central service and certain temporary service), in subsection (3A), after “service” there shall be inserted “, or on temporary service such as is mentioned in paragraph (ba) or (bb) of the said section 38A(1),”.

**Commencement Information**  
**I42** Sch. 9 para. 13 wholly in force at 31.10.1997; Sch. 9 para. 13 not in force at Royal Assent see s. 135; Sch. 9 para. 13 in force at 31.10.1997 by [S.I. 1997/2390](#), [art. 2](#) (with [arts. 3-7](#)(but the said [arts. 4-7](#) were revoked (1.4.1998) by [S.I. 1998/354](#), [art. 7](#)))

- 14          In section 38A (constables engaged on service outside their force)—
  - <sup>F543</sup>(a) .....
  - <sup>F544</sup>(b) .....

**Textual Amendments**  
**F543** Sch. 9 para. 14(a) repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), [Sch. 15 Pt. 1\(A\)](#); [S.I. 2007/709](#), art. 3(q) (with art. 6)  
**F544** Sch. 9 para. 14(b) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2006/378](#), art. 4(1), Sch. para. 13(dd)

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

**I43** Sch. 9 para. 14 wholly in force at 31.10.1997; Sch. 9 para. 14 not in force at Royal Assent see s. 135; Sch. 9 para. 14 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with **arts. 3-7**(but the said **arts. 4-7** were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

**F545** 15 .....

**Textual Amendments**

**F545** Sch. 9 para. 15 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Leasehold Reform Act 1967 (c. 88)*

**F546** 16 .....

**Textual Amendments**

**F546** Sch. 9 para. 16 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Public Expenditure and Receipts Act 1968 (c. 14)*

**F547** 17 .....

**Textual Amendments**

**F547** Sch. 9 para. 17 repealed (14.11.2005) by Civil Contingencies Act 2004 (c. 36), s. 34(1), **Sch. 3**; S.I. 2005/2040, art. 3(r)

*Firearms Act 1968 (c. 27)*

18 In section 54 of the Firearms Act 1968 (application of Act to Crown servants), in subsection (3) (which provides that members of police forces and certain employees of police authorities are deemed to be in the service of Her Majesty), at the end of paragraph (b) there shall be inserted “, or  
(c) a member of the National Criminal Intelligence Service or the National Crime Squad.”.

*Post Office Act 1969 (c. 48)*

**F548** 19 .....

**Textual Amendments**

**F548** Sch. 9 para. 19 repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2**

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Employers' Liability (Compulsory Insurance) Act 1969 (c. 57)*

F549<sup>20</sup> .....

**Textual Amendments**

**F549** Sch. 9 para. 20 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2006/378](#), art. 4(1), Sch. para. 13(dd)

*Police Act (Northern Ireland) 1970 (c. 9 (N.I.))*

F550<sup>21</sup> .....

**Textual Amendments**

**F550** Sch. 9 para. 21 repealed (1.4.1999) by [1998 c. 32](#), ss. 74(2)(3), [Sch. 6](#) (with [Sch. 5 para. 1](#)); [S.R. 1999/176](#), [art. 3](#)

F551<sup>22</sup> .....

**Textual Amendments**

**F551** Sch. 9 para. 22 repealed (1.4.1999) by [1998 c. 32](#), ss. 74(2)(3), [Sch. 6](#) (with [Sch. 5 para. 1](#)); [S.R. 1999/176](#), [art. 3](#)

*Local Authorities (Goods and Services) Act 1970 (c. 39)*

23 F552 .....

**Textual Amendments**

**F552** Sch. 9 para. 23 repealed (1.4.2002) by [2001 c. 16](#), s. 137, [Sch. 7 Pt. 5\(1\)](#); [S.I. 2002/344](#), [art. 3\(j\)\(m\)](#) (with transitional provisions in [art. 4](#))

*Superannuation Act 1972 (c. 11)*

F553<sup>24</sup> .....

**Textual Amendments**

**F553** Sch. 9 para. 24 repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), [Sch. 15 Pt. 1\(A\)](#); [S.I. 2007/709](#), [art. 3\(q\)](#) (with [art. 6](#))

*Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 (NI 6)*

25 F554 .....

*Status:* Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

**F554** Sch. 9 para. 25 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

*Employment Agencies Act 1973 (c. 35)*

**F555** 26 .....

**Textual Amendments**

**F555** Sch. 9 para. 26 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Juries Act 1974 (c. 23)*

**F556** 27 .....

**Textual Amendments**

**F556** Sch. 9 para. 27 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 10; S.I. 2004/829, art. 2(1)(2)(1)(iv)

*District Courts (Scotland) Act 1975 (c. 20)*

28 In subsection (2) of section 12 of the District Courts (Scotland) Act 1975 (disqualification in certain cases of justices who are members of local authorities), the following shall be inserted as the first paragraph—  
“(aa) any reference to a local authority includes a reference to the Service Authority for the National Criminal Intelligence Service;”.

*House of Commons Disqualification Act 1975 (c. 24)*

29 **F557** (1) .....  
**F558** (2) .....  
**F559** (3) .....

**Textual Amendments**

**F557** Sch. 9 para. 29(1) repealed (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), Sch. 15 Pt. 1(A); S.I. 2007/709, art. 3(q) (with art. 6)

**F558** Sch. 9 para. 29(2) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

**F559** Sch. 9 para. 29(3) repealed (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), Sch. 15 Pt. 1(A); S.I. 2007/709, art. 3(q) (with art. 6)

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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#### Commencement Information

**I44** Sch. 9 para. 29 wholly in force at 1.4.1998; Sch. 9 para. 29 not in force at Royal Assent see s. 135; Sch. 9 para. 29(3), in force at 1.9.1997 by [S.I. 1997/1930](#), [art. 2\(1\)\(2\)\(x\)](#); otherwise in force at 1.4.1998 by [S.I. 1998/354](#) art. 2

#### *Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

30 <sup>F560</sup>(1) .....

<sup>F561</sup>(2) .....

<sup>F562</sup>(3) .....

#### Textual Amendments

**F560** Sch. 9 para. 30(1) repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), [Sch. 15 Pt. 1\(A\)](#); [S.I. 2007/709](#), [art. 3\(q\)](#) (with [art. 6](#))

**F561** Sch. 9 para. 30(2) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2006/378](#), [art. 4\(1\)](#), [Sch. para. 13\(dd\)](#)

**F562** Sch. 9 para. 30(3) repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), [Sch. 15 Pt. 1\(A\)](#); [S.I. 2007/709](#), [art. 3\(q\)](#) (with [art. 6](#))

#### *Sex Discrimination Act 1975 (c. 65)*

<sup>F563</sup>31 .....

#### Textual Amendments

**F563** Sch. 9 para. 31 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2006/378](#), [art. 4\(1\)](#), [Sch. para. 13\(dd\)](#)

#### *Fair Employment (Northern Ireland) Act 1976 (c.25)*

[<sup>F564</sup>32 In section 53 of the Fair Employment (Northern Ireland) Act 1976 (police), in subsection (6), in the definition of “chief officer of police”, after paragraph (a) there shall be inserted—

“(aa) in relation to a person appointed, or to an appointment falling to be made, under section 9(1)(b) of the Police Act 1997 (police members of the National Criminal Intelligence Service) means the Director General of the National Criminal Intelligence Service;”.]

#### Textual Amendments

**F564** Sch. 9 para. 32 repealed (4.11.2001) by [2000 c. 32](#), s. 78(4), [Sch. 8](#); [S.R. 2001/396](#), [art. 2](#), [Sch.](#)

#### *Police Pensions Act 1976 (c. 35)*

33 (1) Section 11 of the Police Pensions Act 1976 (interpretation) shall be amended as follows.

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- (2) In subsection (2)—
- (a) the word “and” after paragraph (a) shall be omitted,
  - (b) in paragraph (b) after “it means” there shall be inserted “, subject to paragraphs (c) to (e) below,”, and
  - <sup>F565</sup>(c) .....
- (3) In subsection (5), in the definition of “central service”—
- <sup>F566</sup>(a) .....
  - (b) after “1967” there shall be inserted “or means relevant service within paragraph (ba) or (bb) of section 38A(1) of the said Act of 1967”.

**Textual Amendments**

**F565** Sch. 9 para. 33(2)(c) repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), [Sch. 15 Pt. 1\(A\)](#); [S.I. 2007/709](#), art. 3(q) (with art. 6)

**F566** Sch. 9 para. 33(3)(a) repealed (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), [Sch. 15 Pt. 1\(A\)](#); [S.I. 2007/709](#), art. 3(q) (with art. 6)

*Local Government (Miscellaneous Provisions) Act 1976 (c. 57)*

- 34 In each of sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (licensing of drivers of private hire vehicles and hackney carriages), subsection (1A) shall be omitted.

*Race Relations Act 1976 (c. 74)*

- <sup>F567</sup>35 .....

**Textual Amendments**

**F567** Sch. 9 para. 35 repealed (2.4.2001) by [2000 c. 34](#), s. 9(2), [Sch. 3](#) (with s. 10(5)); [S.I. 2001/566](#), art. 2(1)

- <sup>F568</sup>36 .....

**Textual Amendments**

**F568** Sch. 9 para. 36 repealed (2.4.2001) by [2000 c. 34](#), s. 9(2), [Sch. 3](#) (with s. 10(5)); [S.I. 2001/566](#), art. 2(1)

*Sex Discrimination (Northern Ireland) Order 1976 (NI 15)*

- [<sup>F569</sup>37 In Article 19 of the Sex Discrimination (Northern Ireland) Order 1976 (police), in paragraph (6), in the definition of “chief officer of police”, after sub-paragraph (a) there shall be inserted—
- “(aa) in relation to a person appointed, or to an appointment falling to be made, under section 9(1)(b) of the Police Act 1997 (police members of the National Criminal Intelligence Service) means the Director General of the National Criminal Intelligence Service;”.]

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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**Textual Amendments**

**F569** Sch. 9 para. 37 repealed (4.11.2001) by 2000 c. 32, s. 78(4), **Sch. 8**; S.R. 2001/396, art. 2, **Sch.**

*Rent (Agriculture) Act 1976 (c. 80)*

38 **F570** .....

**Textual Amendments**

**F570** Sch. 9 para. 38 repealed (1.4.2002) by 2001 c. 16, s. 137, **Sch. 7 Pt. 5(1)**; S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

*Rent Act 1977 (c. 42)*

39 **F571** .....

**Textual Amendments**

**F571** Sch. 9 para. 39 repealed (1.4.2002) by 2001 c. 16, s. 137, **Sch. 7 Pt. 5(1)**; S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

*Justices of the Peace Act 1979 (c. 55)*

40 In section 64 of the Justices of the Peace Act 1979 (disqualification in certain cases of justices who are members of local authorities), in subsection (6) (definition of local authority), after “1996” there shall be inserted “, the Service Authority for the National Criminal Intelligence Service, the Service Authority for the National Crime Squad”.

*Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)*

41 In Part I of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, in Group B (ineligibility for jury service of certain persons concerned with the administration of justice), after paragraph (n) there shall be inserted—  
 “(na) members of the National Criminal Intelligence Service;  
 (nb) members of the Service Authority for the National Criminal Intelligence Service and persons employed by that Authority under section 13 of the Police Act 1997;”.

**Commencement Information**

**I45** Sch. 9 para. 41 wholly in force at 1.4.1998; Sch. 9 para. 41 in force for certain purposes at 23.7.1997 by S.I. 1997/1377 art. 4; Sch. 9 para. 41 otherwise in force at 1.4.1998 by S.I. 1998/354 art. 2

*Finance Act 1981 (c. 35)*

42 **F572** .....



*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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**Textual Amendments**

**F572** Sch. 9 para. 42 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

*Acquisition of Land Act 1981 (c. 67)*

43 **F573** .....

**Textual Amendments**

**F573** Sch. 9 para. 43 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

*Stock Transfer Act 1982 (c. 41)*

**F574** 44 .....

**Textual Amendments**

**F574** Sch. 9 para. 44 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 4(1)**, Sch. para. 13(dd)

*County Courts Act 1984 (c. 28)*

45 **F575** .....

**Textual Amendments**

**F575** Sch. 9 para. 45 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, **art. 3(j)(m)** (with transitional provisions in **art. 4**)

*Police and Criminal Evidence Act 1984 (c. 60)*

**F576** 46 .....

**Textual Amendments**

**F576** Sch. 9 paras. 46-48 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 4(1)**, Sch. para. 13(dd)

**F576** 47 .....

**Textual Amendments**

**F576** Sch. 9 paras. 46-48 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 4(1)**, Sch. para. 13(dd)

*Status: Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*

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*Prosecution of Offences Act 1985 (c. 23)*

F576 48 .....

**Textual Amendments**

**F576** Sch. 9 paras. 46-48 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Housing Act 1985 (c. 68)*

49 F577 .....

**Textual Amendments**

**F577** Sch. 9 para. 49 repealed (1.4.2002) by [2001 c. 16](#), s. 137, [Sch. 7 Pt. 5\(1\)](#); S.I. 2002/344, [art. 3\(J\)\(m\)](#) (with transitional provisions in [art. 4](#))

*Housing Associations Act 1985 (c. 69)*

50 In section 106 of the Housing Associations Act 1985 (minor definitions), in subsection (1), in the definition of “local authority”, after “1996” there shall be inserted “ and the Service Authority for the National Crime Squad and the Service Authority for the National Criminal Intelligence Service ”.

**Commencement Information**

**I46** Sch. 9 para. 50 wholly in force at 31.10.1997; Sch. 9 para. 50 not in force at Royal Assent see s. 135; Sch. 9 para. 50 in force at 31.10.1997 by S.I. 1997/2390, [art. 2](#) (with [arts. 3-7](#)(but the said [arts. 4-7](#) were revoked (1.4.1998) by S.I. 1998/354, [art. 7](#)))

*Landlord and Tenant Act 1985 (c. 70)*

51 F578 .....

**Textual Amendments**

**F578** Sch. 9 para. 51 repealed (1.4.2002) by [2001 c. 16](#), s. 137, [Sch. 7 Pt. 5\(1\)](#); S.I. 2002/344, [art. 3\(j\)\(m\)](#) (with transitional provisions in [art. 4](#))

*Landlord And Tenant Act 1987 (c. 31)*

52 F579 .....

**Textual Amendments**

**F579** Sch. 9 para. 52 repealed (1.4.2002) by [2001 c. 16](#), s. 137, [Sch. 7 Pt. 5\(1\)](#); S.I. 2002/344, [art. 3\(j\)\(m\)](#) (with transitional provisions in [art. 4](#))

*Status:* Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Income and Corporation Taxes Act 1988 (c.1)*

53 F580 .....

**Textual Amendments**

**F580** Sch. 9 para. 53 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

*Dartford-Thurrock Crossing Act 1988 (c. 20)*

F581 54 .....

**Textual Amendments**

**F581** Sch. 9 para. 54 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Local Government Finance Act 1988 (c. 41)*

55 F582 .....

**Textual Amendments**

**F582** Sch. 9 para. 55 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

56 In section 65A (which was inserted by section 3 of the <sup>M23</sup>Local Government and Rating Act 1997 and makes provision about Crown property), in subsection (4)(b) for the words from “or by a police authority” to the end there shall be substituted “, a police authority established under section 3 of the Police Act 1996, the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad”.

**Marginal Citations**

**M23** 1997 c. 29.

*Housing Act 1988 (c. 50)*

57 In Schedule 1 to the Housing Act 1988 (tenancies which cannot be assured tenancies), in paragraph 12 (local authority tenancies, etc.), in sub-paragraph (2) (g), after “1996” there shall be inserted “, the Service Authority for the National Criminal Intelligence Service and the Service Authority for the National Crime Squad”.

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*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

**I47** Sch. 9 para. 57 wholly in force at 31.10.1997; Sch. 9 para. 57 not in force at Royal Assent see s. 135; Sch. 9 para. 57 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with arts. 3-7 (but the said arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

*Road Traffic Act 1988 (c. 52)*

<sup>F583</sup>58 .....

**Textual Amendments**

**F583** Sch. 9 paras. 58-62 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

<sup>F583</sup>59 .....

**Textual Amendments**

**F583** Sch. 9 paras. 58-62 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Security Service Act 1989 (c. 5)*

<sup>F583</sup>60 .....

**Textual Amendments**

**F583** Sch. 9 paras. 58-62 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

<sup>F583</sup>61 .....

**Textual Amendments**

**F583** Sch. 9 paras. 58-62 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Official Secrets Act 1989 (c. 6)*

<sup>F583</sup>62 .....

**Textual Amendments**

**F583** Sch. 9 paras. 58-62 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

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*Town and Country Planning Act 1990 (c. 8)*

63 F584 .....

**Textual Amendments**

**F584** Sch. 9 para. 63 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

*Aviation and Maritime Security Act 1990 (c. 31)*

64 In section 22 of the Aviation and Maritime Security Act 1990 (power to require harbour authorities to promote searches in harbour areas), in subsection (4)(b)—

- (a) the words “who is a member of a body of constables maintained” shall be omitted,
- (b) at the beginning of both sub-paragraph (i) and sub-paragraph (ii) there shall be inserted “ who is a member of a body of constables maintained ”, and
- (c) at the end of sub-paragraph (ii) there shall be inserted “, or  
(iii) who is a member of the National Criminal Intelligence Service within section 9(1)(a) or (b) of the Police Act 1997 or a member of the National Crime Squad within section 55(1)(a) or (b) of that Act.”.

*Road Traffic Act 1991 (c. 40)*

65 Section 47 of the Road Traffic Act 1991 (applications for licences to drive hackney carriages etc.) shall cease to have effect.

**Commencement Information**

**I48** Sch. 9 para. 65 partly in force; Sch. 9 para. 65 not in force at Royal Assent, see s. 135(1); Sch. 9 para. 65 in force for E.W. at 1.3.2002 by S.I. 2002/413, art. 2

*Local Government Finance Act 1992 (c. 14)*

66 In section 19 of the Local Government Finance Act 1992 (exclusion of Crown exemption in certain cases), in subsection (3), for “and” at the end of paragraph (c) there shall be substituted—

- “(ca) the Service Authority for the National Criminal Intelligence Service;
- (cb) the Service Authority for the National Crime Squad;”.

**Commencement Information**

**I49** Sch. 9 para. 66 wholly in force at 31.10.1997; Sch. 9 para. 66 not in force at Royal Assent see s. 135; Sch. 9 para. 66 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (but the said arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7))

67 F585 .....

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*Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**  
F585 Sch. 9 para. 67 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

68 F586 .....

**Textual Amendments**  
F586 Sch. 9 para. 68 repealed (1.4.2002) by 2001 c. 16, s. 137, Sch. 7 Pt. 5(1); S.I. 2002/344, art. 3(j)(m) (with transitional provisions in art. 4)

*Tribunals and Inquiries Act 1992 (c.53)*

F587 69 .....

**Textual Amendments**  
F587 Sch. 9 para. 69 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

F588 70 .....

**Textual Amendments**  
F588 Sch. 9 para. 70 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Criminal Appeals Act 1995 (c. 35)*

71 (1) Section 22 of the Criminal Appeals Act 1995 (meaning of “public body” etc.) shall be amended as follows.

(2) In subsection (2)—

F589 (a) .....

(b) for paragraph (b) (meaning of “chief officer of police”) there shall be substituted—

“(b) references to the chief officer of police—

(i) in relation to the [F590Police Service of Northern Ireland] and the [F590Police Service of Northern Ireland Reserve], are to the Chief Constable of the Constabulary,

(ii) in relation to the National Crime Squad, are to the Director General of the Squad, and

(iii) in relation to any other police force maintained otherwise than by a police authority, are to the chief constable,”

F589 (c) .....

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F589 (d) .....

F591 (3) .....

**Textual Amendments**

**F589** Sch. 9 para. 71(2)(a)(c)(d) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2006/378](#), art. 4(1), Sch. para. 13(dd)

**F590** Words in Sch. 9 para. 71(2)(b) substituted (4.11.2001) by [2000 c. 32](#), s. 78(1), [Sch. 6 para. 20\(2\)\(a\)\(b\)](#); [S.R. 2001/396](#), art. 2, [Sch.](#)

**F591** Sch. 9 para. 71(3) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2006/378](#), art. 4(1), Sch. para. 13(dd)

*Police Act 1996 (c. 16)*

72 The Police Act 1996 shall be amended as follows.

**Commencement Information**

**I50** Sch. 9 para. 72 wholly in force at 31.10.1997; Sch. 9 para. 72 not in force at Royal Assent see s. 135; Sch. 9 para 72 in force at 31.10.1997 by [S.I. 1997/2390](#), [art. 2](#) (with [arts. 3-7](#)(but the said [arts. 4-7](#) were revoked (1.4.1998) by [S.I. 1998/354](#), [art. 7](#)))

F592 73 .....

**Textual Amendments**

**F592** Sch. 9 para. 73 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2006/378](#), art. 4(1), Sch. para. 13(dd)

F593 74 .....

**Textual Amendments**

**F593** Sch. 9 para. 74 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2006/378](#), art. 4(1), Sch. para. 13(dd)

75 At the end of section 53 (regulations as to standards of equipment) (which becomes subsection (1)) there shall be added—

“(2) The Secretary of State shall consult the Police Information Technology Organisation before making regulations under this section relating to information technology.

(3) In subsection (2) “information technology” includes any computer or other technology by means of which information or other matter may be recorded or communicated without being reduced to documentary form.”.

F594 76 .....

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**Textual Amendments**

**F594** Sch. 9 para. 76 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

F59577 .....

**Textual Amendments**

**F595** Sch. 9 para. 77 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

- 78 (1) Section 57 (common services) shall be amended as follows.
- (2) After subsection (3) there shall be inserted—
  - “(3A) Regulations under this section relating to all police forces may also require the National Crime Squad to use the specified facilities or services, or the facilities or services of a specified description, if the Secretary of State considers that it would be in the interests of the efficiency or effectiveness of the Squad for the Squad to do so.”.
- (3) In subsection (4), at the end of paragraph (b) there shall be added “, and
  - (c) if the regulations relate to the National Crime Squad, the Service Authority for the National Crime Squad and the Director General of that Squad.”.
- (4) After subsection (4) there shall be added—
  - “(5) The Secretary of State shall consult the Police Information Technology Organisation before making regulations under this section relating to information technology.
  - (6) In subsection (5) “information technology” includes any computer or other technology by means of which information or other matter may be recorded or communicated without being reduced to documentary form.”.

F59679 .....

**Textual Amendments**

**F596** Sch. 9 paras. 79-84 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

F59680 .....

**Textual Amendments**

**F596** Sch. 9 paras. 79-84 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

F59681 .....



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**Textual Amendments**

**F596** Sch. 9 paras. 79-84 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

**Commencement Information**

**I51** Sch. 9 para. 81 wholly in force at 31.10.1997; Sch. 9 para. 81 not in force at Royal Assent see s. 135; Sch. 9 para. 81 in force at 31.10.1997 by S.I. 1997/2390, **art. 2** (with arts. 3-7 (but the said arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, **art. 7**))

F59682 .....

**Textual Amendments**

**F596** Sch. 9 paras. 79-84 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

F59683 .....

**Textual Amendments**

**F596** Sch. 9 paras. 79-84 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

F59684 .....

**Textual Amendments**

**F596** Sch. 9 paras. 79-84 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

85 In section 88 (liability for wrongful acts of constables), in subsection (5)(b), after “or 98” there shall be inserted “ of this Act or section 23 of the Police Act 1997 ”.

86 (1) Section 97 (police officers engaged on service outside their force) shall be amended as follows.

(2) In subsection (1), after paragraph (c) there shall be inserted—

- “(ca) temporary service with the National Criminal Intelligence Service on which a person is engaged with the consent of the appropriate authority;
- (cb) temporary service with the National Crime Squad on which a person is engaged with the consent of the appropriate authority;
- (cc) temporary service with the Police Information Technology Organisation on which a person is engaged with the consent of the appropriate authority;”.

F597(3) .....

F597(4) .....

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**Textual Amendments**  
**F597** Sch. 9 para. 86(3)(4) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

**Commencement Information**  
**I52** Sch. 9 para. 86 wholly in force at 31.10.1997; Sch. 9 para. 86 not in force at Royal Assent see s. 135; Sch. 9 para. 86 in force at 31.10.1997 by S.I. 1997/2390, [art. 2](#) (with [arts. 3-7](#)(but the said [arts. 4-7](#) were revoked (1.4.1998) by S.I. 1998/354, [art. 7](#)))

<sup>F598</sup>87 .....

**Textual Amendments**  
**F598** Sch. 9 para. 87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Employment Rights Act 1996 (c. 18)*

<sup>F599</sup>88 .....

**Textual Amendments**  
**F599** Sch. 9 para. 88 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. para. 13(dd)

*Housing Grants, Construction and Regeneration Act 1996 (c. 53)*

89 In section 3 of the Housing Grants, Construction and Regeneration Act 1996 (persons ineligible for grant under Chapter I of Part I of that Act), in subsection (2), for paragraph (g) there shall be substituted—  
“(g) a police authority established under section 3 of the Police Act 1996, the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad;”.

<sup>F600</sup>90 .....

**Textual Amendments**  
**F600** Sch. 9 para. 90 repealed (19.7.2003) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), art. 1(3), [Sch. 6](#)

*Juries (Northern Ireland) Order 1996 (NI 6)*

91 In Schedule 2 to the Juries (Northern Ireland) Order 1996 (persons ineligible for jury service), after the entry for members and staff of the [<sup>F601</sup>Northern Ireland Policing Board] there shall be inserted—

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“Members of the National Criminal Intelligence Service, members of the Service Authority for the National Criminal Intelligence Service and persons employed by the Authority.”.

**Textual Amendments**

**F601** Words in Sch. 9 para. 91 substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**

**Commencement Information**

**I53** Sch. 9 para. 91 wholly in force at 31.10.1997; Sch. 9 para. 91 not in force at Royal Assent see s. 135; Sch. 9 para. 91 in force at 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (but the said arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7))

*Justices of the Peace Act 1997 (c.25)*

F60292 .....

**Textual Amendments**

**F602** Sch. 9 para. 92 repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 10**; S.I. 2005/910, art. 3(aa)

SCHEDULE 10

Section 134(2).

REPEALS

**Extent Information**

**E10** The repeals in Sch. 10 have the same extent as the enactments to which they refer.

**Commencement Information**

**I54** Sch. 10 partly in force; Sch. 10 not in force at Royal Assent see s. 135(1); Sch. 10 in force for certain purposes at: 1.4.1998 by S.I. 1998/354, art. 2(2)(ay)(bc); 1.3.2002 for E.W. by S.I. 2002/413, art. 2

Chapter	Short title	Extent of repeal
1967 c. 77.	Police (Scotland) Act 1967.	In section 39(4), the word “or” in the third place where it occurs.
1967 c. 88.	Leasehold Reform Act 1967.	In section 28(5)(a), the word “and” in the second place where it occurs.
1972 c. 70.	Local Government Act 1972.	In section 146A(1A), the word “not”. In section 223(2), the word “and”.

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1976 c. 35.	Police Pensions Act 1976.	After section 11(2)(a), the word “and”.
1976 c. 57.	Local Government (Miscellaneous Provisions) Act 1976.	Sections 51(1A) and 59(1A).
1986 c. 60.	Financial Services Act 1986.	Section 189. Schedule 14.
1987 c. 22.	Banking Act 1987.	Section 95.
1989 c. 5.	Security Service Act 1989.	Section 2(3B).
1990 c. 31.	Aviation and Maritime Security Act 1990.	In section 22(4)(b), the words “who is a member of a body of constables maintained”.
1991 c. 40.	Road Traffic Act 1991.	Section 47.
1993 c. 21.	Osteopaths Act 1993.	Section 39.
1993 c. 39.	National Lottery etc. Act 1993.	Section 19.
1994 c. 17.	Chiropractors Act 1994.	Section 40.
1995 c. 25.	Environment Act 1995.	In Schedule 22, paragraph 17(a).
1996 c. 16.	Police Act 1996.	In section 62(1), at the end of paragraph (b) the word “or”. In section 98(4), the word “or” in the sixth place it occurs.
1996 c. 35.	Security Service Act 1996.	Section 1(3).

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**Status:**

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