



Police Act 1997

1997 CHAPTER 50

PART V

CERTIFICATES OF CRIMINAL RECORDS, &C.

112 Criminal conviction certificates

- (1) The Secretary of State shall issue a criminal conviction certificate to any individual who—
 - (a) makes an application in the prescribed form, and
 - (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.
- (2) A criminal conviction certificate is a certificate which—
 - (a) gives the prescribed details of every conviction of the applicant which is recorded in central records, or
 - (b) states that there is no such conviction.
- (3) In this section—

“central records” means such records of convictions held for the use of police forces generally as may be prescribed;

“conviction” means a conviction within the meaning of the Rehabilitation of Offenders Act 1974, other than a spent conviction.
- (4) Where an applicant has received a criminal conviction certificate, the Secretary of State may refuse to issue another certificate to that applicant during such period as may be prescribed.

113 Criminal record certificates

- (1) The Secretary of State shall issue a criminal record certificate to any individual who—
 - (a) makes an application under this section in the prescribed form countersigned by a registered person, and

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- (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.
- (2) An application under this section must 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, or
 - (b) states that there is no such matter.
- (4) The Secretary of State shall send a copy of a criminal record certificate to the registered person who countersigned the application.
- (5) 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);
 - “relevant matter” means—
 - (i) a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction, and
 - (ii) a caution.

114 Criminal record certificates: Crown employment

- (1) The Secretary of State shall issue a criminal record certificate to any individual who—
 - (a) makes an application under this section in the prescribed form, and
 - (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.
- (2) An application under this section must be accompanied by a statement by a Minister of the Crown 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.
- (3) Section 113(3) to (5) shall apply in relation to this section with any necessary modifications.

115 Enhanced criminal record certificates

- (1) The Secretary of State shall issue an enhanced criminal record certificate to any individual who—
 - (a) makes an application under this section in the prescribed form countersigned by a registered person, and
 - (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.
- (2) An application under this section must be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question asked—

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- (a) in the course of considering the applicant's suitability for a position (whether paid or unpaid) within subsection (3) or (4), or
 - (b) for a purpose relating to any of the matters listed in subsection (5).
- (3) A position is within this subsection if it involves regularly caring for, training, supervising or being in sole charge of persons aged under 18.
- (4) A position is within this subsection if—
 - (a) it is of a kind specified in regulations made by the Secretary of State, and
 - (b) it involves regularly caring for, training, supervising or being in sole charge of persons aged 18 or over.
- (5) The matters referred to in subsection (2)(b) are—
 - (a) a certificate for the purposes of sections 19 or 27(1) or (5) of the Gaming Act 1968 (gaming);
 - (b) a certificate of consent, or a licence, for any purpose of Schedule 2 to that Act (licences);
 - (c) registration or certification in accordance with Schedule 1A, 2 or 2A to the Lotteries and Amusements Act 1976 (societies, schemes and lottery managers);
 - (d) a licence under section 5 or 6 of the National Lottery etc. Act 1993 (running or promoting lotteries);
 - (e) registration under section 71 of the Children Act 1989 or Article 118 of the Children (Northern Ireland) Order 1995 (child minding and day care);
 - (f) the placing of children with foster parents in accordance with any provision of, or made by virtue of, the Children Act 1989 or the Children (Northern Ireland) Order 1995 or the exercise of any duty under or by virtue of section 67 of that Act or Article 108 of that Order (welfare of privately fostered children);
 - (g) the approval of any person as a foster carer by virtue of section 5(2), (3) and (4) of the Social Work (Scotland) Act 1968, the exercise by a local authority of their functions under the Foster Children (Scotland) Act 1984 or the placing of children with foster parents by virtue of section 70 of the Children (Scotland) Act 1995 (disposal of referral by children's hearing).
- (6) An enhanced criminal record certificate is a certificate which—
 - (a) gives—
 - (i) the prescribed details of every relevant matter relating to the applicant which is recorded in central records, and
 - (ii) any information provided in accordance with subsection (7), or
 - (b) states that there is no such matter or information.
- (7) Before issuing an enhanced criminal record certificate the Secretary of State shall request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—
 - (a) might be relevant for the purpose described in the statement under subsection (2), and
 - (b) ought to be included in the certificate.
- (8) The Secretary of State shall also request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—
 - (a) might be relevant for the purpose described in the statement under subsection (2),

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- (b) ought not to be included in the certificate, in the interests of the prevention or detection of crime, and
 - (c) can, without harming those interests, be disclosed to the registered person.
- (9) The Secretary of State shall send to the registered person who countersigned an application under this section—
- (a) a copy of the enhanced criminal record certificate, and
 - (b) any information provided in accordance with subsection (8).
- (10) In this section—
- “central records”, “exempted question” and “relevant matter” have the same meaning as in section 113; and
 - “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.

116 Enhanced criminal record certificates: judicial appointments and Crown employment

- (1) The Secretary of State shall issue an enhanced criminal record certificate to any individual who—
- (a) makes an application under this section in the prescribed form, and
 - (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.
- (2) An application under this section must be accompanied by a statement by a Minister of the Crown, or a person nominated by a Minister of the Crown, 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 to which subsection (3) or (4) of section 115 applies.
- (3) Section 115(6) to (10) shall apply in relation to this section with any necessary modifications.

117 Disputes about accuracy of certificates

- (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 in writing to the Secretary of State for a new certificate.
- (2) The Secretary of State shall consider any application under this section; and where he is of the opinion that the information in the certificate is inaccurate he shall issue a new certificate.

118 Evidence of identity

- (1) The Secretary of State may refuse to issue a certificate under this Part, or to consider an application under section 117, unless the application is supported by such evidence of identity as he may require.

- (2) In particular, the Secretary of State 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.
- (3) Regulations dealing with the taking of fingerprints may make provision requiring their destruction in specified circumstances and by specified persons.
- (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 where a new certificate is issued.

119 Sources of information

- (1) Any person who holds records of convictions or cautions for the use of police forces generally shall make those records available to the Secretary of State for the purposes of an application under this Part.
- (2) Where the chief officer of a police force receives a request under section 115 or 116 he shall comply with it as soon as practicable.
- (3) The Secretary of State shall pay to the appropriate police authority, or, in the case of the metropolitan police force, the Receiver for the Metropolitan Police District, the prescribed fee for information provided in accordance with subsection (2).
- (4) Any person who holds records of fingerprints for the use of police forces generally shall make those records available to the Secretary of State for the purposes of an application under this Part.
- (5) No proceedings shall lie against the Secretary of State by reason of an inaccuracy in the information made available or provided to him in accordance with this section.

120 Registered persons

- (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 regulations under subsection (3), the Secretary of State shall include in the register any person who applies to him in writing 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,
 - (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 113 or 115, and
 - (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

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- (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 113 or 115 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 113.

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

In Scotland a constable engaged on central service (within the meaning of section 38 of the Police (Scotland) Act 1967) may perform functions under this Part (other than functions under section 114(2), 115(4) or (10), 116(2), 122(1) or (2) or 125) 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.

122 Code of practice

- (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 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 113 or 115 if he believes that the registered person who countersigned the application—
 - (a) has failed to comply with the code of practice under this section, or
 - (b) countersigned at the request of a body which, or individual who, has failed to comply with the code of practice.

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.

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 113 or 115 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 countersigned the application, or
 - (c) to an individual at whose request the registered body countersigned the relevant application.
- (2) Where information is provided under section 113 or 115 following an application countersigned 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 113 or 115 following an application countersigned by or 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 113 or 115 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 (5) or (6)(a), (d), (e) or (f),
- the person to whom the information is disclosed commits an offence (subject to subsections (5) and (6)) if he discloses it to any other person.
- (5) Subsections (1) to (4) do not apply to a disclosure of information provided in accordance with section 115(8) 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 113 or 115 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 113) 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.

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.
- (2) Regulations under this Part shall be made by statutory instrument.
- (3) A statutory instrument which contains (whether alone or with other provisions) regulations made by virtue of section 115(4) shall not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (4) A statutory instrument to which subsection (3) does not apply 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.

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;

“chief officer” means—

- (i) a chief officer of police of a police force in England and Wales,
- (ii) a chief constable of a police force in Scotland, and
- (iii) the Chief Constable of the Royal Ulster Constabulary;

“government department” includes a Northern Ireland department;

“Minister of the Crown” includes a Northern Ireland department;

“police authority” means—

- (i) a police authority for an area in Great Britain or a joint police board (within the meaning of the Police (Scotland) Act 1967), and
- (ii) the Police Authority for Northern Ireland;

“police force” means—

- (i) a police force in Great Britain, and
- (ii) the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve;

“prescribed” shall be construed in accordance with section 125(1).

(2) In the application of this Part to Northern Ireland, a reference to the Rehabilitation of Offenders Act 1974, or to a provision of that Act, shall be construed as a reference to the Rehabilitation of Offenders (Northern Ireland) Order 1978 or, as the case may be, to the corresponding provision of that order.

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.