



Protection of Freedoms Act 2012

2012 CHAPTER 9

PART 5

SAFEGUARDING VULNERABLE GROUPS, CRIMINAL RECORDS ETC.

CHAPTER 2

CRIMINAL RECORDS

Up-dating and content of certificates

VALID FROM 17/06/2013

83 Up-dating certificates

After section 116 of the Police Act 1997 (enhanced criminal record certificates: judicial appointments and Crown employment) insert—

“116A Up-dating certificates

- (1) The Secretary of State 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) The Secretary of State 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,

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- (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 the Secretary of State for the certificate to be subject to up-date arrangements,
 - (b) the individual has paid in the prescribed manner any prescribed fee,
 - (c) the Secretary of State 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 the Secretary of State 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) the Secretary of State 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
 - (ii) would still be subject to those arrangements had it not been superseded.
- (7) The Secretary of State 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—

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- (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—
 - (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

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exempted question asked for a purpose prescribed under section 113B(2)(b).”

Modifications etc. (not altering text)

- C1** S. 83 extended (Guernsey) (with modifications) (coming into force in accordance with art. 1(2)(3) of the amending S.I.) by [The Police Act 1997 \(Criminal Records\) \(Guernsey\) \(Amendment\) Order 2012 \(S.I. 2012/1762\)](#), art. 4(1)(2), **Sch. 1**
- C2** S. 83 extended (Jersey) (with modifications) (17.10.2012 coming into force in accordance with art. 1(2)(3) by [The Police Act 1997 \(Criminal Records\) \(Jersey\) \(Amendment\) Order 2012 \(S.I. 2012/2591\)](#), art. 1(2)(3)4(1)(2)(d), **Sch. 1** (with art. 5)
- C3** S. 83 extended (Isle of Man) (with modifications) (with effect in accordance with art. 1(3)(4) of the amending S.I.) by [The Police Act 1997 \(Criminal Records\) \(Isle of Man\) \(Amendment\) Order 2012 \(S.I. 2012/2598\)](#), arts. 1(2), 4(1)(d), **Sch. 1**

84 Criminal conviction certificates: conditional cautions

In section 112(2) of the Police Act 1997 (contents of a criminal conviction certificate)

- (a) in paragraph (a) after “conviction” insert “ or conditional caution ”, and
- (b) in paragraph (b) for “is no such conviction” substitute “ are no such convictions and conditional cautions ”.

Modifications etc. (not altering text)

- C4** S. 84 extended (Guernsey) (with modifications) (coming into force in accordance with art. 1(2)(3) of the amending S.I.) by [The Police Act 1997 \(Criminal Records\) \(Guernsey\) \(Amendment\) Order 2012 \(S.I. 2012/1762\)](#), art. 4(1)(2), **Sch. 1**

Commencement Information

- I1** S. 84 in force at 10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157) by [S.I. 2012/2234](#), **art. 2(v)**

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