



## 2015 CHAPTER 9

### PART 5

#### CRIMINAL RECORDS

##### **Enhanced criminal record certificates: additional safeguards**

**40.**—(1) In subsection (4) of section 113B of the Police Act 1997 (enhanced criminal record certificates: requests by the Department to chief officers for information)—

- (a) for “the chief officer of every relevant police force” substitute “ any relevant chief officer ”,
- (b) omit “, in the chief officer's opinion”,
- (c) in paragraph (a), for “might” substitute “ the chief officer reasonably believes to ”, and
- (d) in paragraph (b), at the beginning insert “ in the chief officer's opinion, ”.

(2) After subsection (4) of that section of that Act insert—

“(4A) 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.”.

(3) In subsection (9) of that section of that Act—

- (a) before the definition of “relevant police force” insert—

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

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

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*Changes to legislation: Justice Act (Northern Ireland) 2015, Section 40 is up to date with all changes known to be in force on or before 23 May 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) View outstanding changes*

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

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

(5) After section 117 of that Act insert—

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

(1) Subsection (2) applies if a person believes that information provided in accordance with section 113B(4) and included in a certificate under section 113B or 116—

- (a) is not relevant for the purpose described in the statement under section 113B(2) or (as the case may be) 116(2), or
- (b) ought not to be included in the certificate.

(2) The person may apply in writing to the independent monitor appointed under section 119B for a decision as to whether the information is information which falls within subsection (1)(a) or (b).

(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.

(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).

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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.”.

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**Commencement Information**

**II** S. 40 in operation at 2.11.2015 by S.R. 2015/358, art. 2(e)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(2)(2A) substituted for s. 13(2) by [2022 c. 4 \(N.I.\) s. 4\(5\)](#)
- s. 13(4)(5) added by [2022 c. 4 \(N.I.\) s. 4\(6\)](#)
- s. 13A inserted by [2022 c. 4 \(N.I.\) s. 4\(7\)](#)
- s. 13A inserted by [2022 c. 4 \(N.I.\) s. 4\(7\)](#)
- Sch. 2 para. 8(1) Sch. 2 para. 8 renumbered as Sch. 2 para. 8(1) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(f\)\(i\)](#)
- Sch. 2 para. 8(2) inserted by [2022 c. 4 \(N.I.\) s. 4\(9\)\(f\)\(iii\)](#)
- Sch. 2 para. 8(1) words substituted by [2022 c. 4 \(N.I.\) s. 4\(9\)\(f\)\(ii\)](#)