

2010 No. 229

CRIMINAL LAW

**The Police Act 1997 (Criminal Records) (Disclosure)
(Amendment) Regulations (Northern Ireland) 2010**

Made - - - - *28th June 2010*

Coming into operation - *26th July 2010*

The Department of Justice makes the following Regulations in exercise of the powers conferred by sections 112(1)(b), 113A(1)(b), 113B(1)(b), 113BA(1), 113BB(1), and 125(1) and (5) of the Police Act 1997(a) as modified by section 126A(b) of that Act.

Citation and commencement

1. These Regulations may be cited as the Police Act 1997 (Criminal Records) (Disclosure) (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on 26 July 2010.

Amendment of the Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008

2.—(1) The Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008(c) are amended as follows.

(2) In Regulation 4(d) (fees for disclosures)—

- (a) the existing text of regulation 4 becomes paragraph (1);
- (b) after paragraph (1) insert—

“(2) No fee is payable in respect of an application made by a volunteer unless it is an application to which paragraph (3) or (4) applies, in which case the appropriate fee prescribed in paragraph (1) is payable.

(3) This paragraph applies to an application by a volunteer in connection with an activity in which that volunteer is engaged, or to be engaged, directly for a statutory body.

(4) This paragraph applies to an application by a volunteer in circumstances where a sum to include the cost of a disclosure fee in connection with the activity which that volunteer is engaged, or to be engaged, in, has been provided out of public funds.

(5) In this regulation—

(a) 1997 c.50. Sections 113A and 113B were inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15). Sections 113BA and 113BB were inserted by section 63(1) of and Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c.47).
(b) Section 126A was inserted by Article 12 of and Schedule 14 paragraph 38 to S.I. 2010/976.
(c) S.I. 2008/542. Relevant amendments were made by S.I.s. 2009/2495 and 2009/3334.
(d) Regulation 4 was substituted by Regulation 2(2) of S.I. 2009/3334.

“non-profit organisation or person” means an organisation or person which does not distribute its surplus funds to owners or shareholders;

“statutory body” means a body established by or under an enactment;

“volunteer” means a person engaged, or to be engaged, in an activity for a non-profit organisation or person which involves spending time unpaid (except for travel and other approved out-of-pocket expenses) doing something which amounts to a benefit to some third party other than, or in addition to, a close relative.”

(3) For regulation 9A(a) substitute

“Suitability information relating to children

9A. Cases in which an application for an enhanced criminal record certificate is made for a purpose prescribed in sub-paragraph (a), (d), (e), (f), (g), (h), (i), (l) or (m) of regulation 9(1) are prescribed for the purposes of section 113BA of the Act.

Suitability information relating to vulnerable adults

9B. Cases in which an application for an enhanced criminal record certificate is made for a purpose prescribed in sub-paragraph (b), (g), (h), (j), (l) or (m) of regulation 9(1) are prescribed for the purposes of section 113BB of the Act.”

Sealed with the Official Seal of the Department of Justice on 28 June 2010

David Ford
Minister of Justice

(a) Regulation 9A was inserted by Regulation 2(5) of S.I. 2009/2495,

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations amend the Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008 (“the principal Regulations”).

Regulation 4 of the principal Regulations (which was substituted by S.I. 2009/3334 and prescribes the fees payable on applications for criminal records disclosures) is amended to provide that where an application is made by a volunteer, no fee is payable. There are two exceptions to this. The first is where the applicant is volunteering directly for a statutory body. The second is where the cost of the application fee has been paid from public funds.

Regulation 9A of the principal Regulations (which was inserted by S.I. 2009/2495) is substituted by new Regulations 9A and 9B which prescribe the cases in which suitability information relating to children and vulnerable adults respectively must be included in an enhanced criminal record certificate. The cases are prescribed by reference to the purposes prescribed in Regulation 9 of the principal Regulations. The purpose of the substituted provisions is to improve the clarity of the original provision. The prescribed cases have not been changed.

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