

EXPLANATORY MEMORANDUM TO

The Police Act 1997 (Criminal Records) (Amendment) Regulations (Northern Ireland) 2019

S.R. 2019 No. 28

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 112(1)(b) 113A(1)(b), 113B(1)(b), 120ZA(1) and(2) 125 of the Police Act 1997(a) as modified by section 126A of that Act and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations amend the Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008 (the Disclosure Regulations) and Police Act 1997 (Criminal Records) (Registration) Regulations 2007 (the Registration Regulations). They amend the current Regulation 4 of the Disclosure Regulations which sets out the fees payable for each type of certificate issued and Regulation 6 of the registration Regulations which sets out the fees payable for registration of first and additional persons with AccessNI. Registration is for the purpose of countersigning applications for disclosure certificates.

3. Background

- 3.1. AccessNI operates on a cost recovery basis, charging fees for the production of disclosure certificates and the registration of persons to offset the costs of running the service provided. Under the Northern Ireland Government guidance Managing Public Money (NI), AccessNI is required to ensure that as far as possible, the service does not attract a surplus or loss.
- 3.2. AccessNI has recently undertaken a review of the financial model of the service. As a result of this review, AccessNI received approval from the Department of Finance to reduce anticipated surplus funds in future years and to remove the element of financial cross subsidisation between the various types of disclosure certificates in order to comply with Managing Public Money (NI). This requires AccessNI to initially reduce the fee charged for criminal conviction certificates and criminal record certificates from £26 to £18.
- 3.3. In addition, AccessNI is aware that the fee for an individual (who normally represents an organisation) to register with AccessNI for the purposes of countersigning applications for criminal record checks and enhanced criminal record checks or for adding additional persons to this register has remained unchanged since 2008. Since that time inflation has risen over 30% and approval has been received to increase the fee for initial

registration from £150 to £195 and for each additional person from £10 to £13.

- 3.4. Regulation 4 of Part V of the Disclosure Regulations, sets out the level of fee that can be charged for each type of disclosure certificate. To effect a reduction in price of certificates, the legislation needs to be amended. Regulation 6 of the Registration Regulation sets out the fees to be charged when a person initially registers with AccessNI and the costs of adding additional persons to the register. To effect a change in these fees the legislation needs to be amended.

4. Consultation

- 4.1. The proposals to amend fees are brought about by the necessity of AccessNI complying with Managing Public Money (NI). On that basis a consultation would not be required

5. Equality Impact

- 5.1. AccessNI has concluded that there is no adverse impact on any section 75 group in respect of these changes as they equally apply to all applicants. .

6. Regulatory Impact

- 6.1. AccessNI considers these changes will have a positive regulatory impact in that the cost of obtaining criminal conviction and criminal record certificates will reduce. T

7. Financial Implications

- 7.1. Approval has been sought and obtained from the Department of Finance in respect of the changes to fees outlined in the legislation.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered its obligations under section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations are not incompatible with Convention rights, nor are they incompatible with Community law, do not discriminate against a person or class of person on the grounds of religious belief or political opinion, and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. There are no EU implications.

10. Parity or Replicatory Measure

- 10.1. Similar provisions to charge fees for disclosure certificates and for registration with the respective criminal history disclosure units, the Disclosure and Barring Service (England and Wales) and Disclosure Scotland (Scotland), exist. The changes set out in this legislation will make the cost of a criminal conviction certificate and a criminal record certificate £7 less in Northern Ireland than in those jurisdictions. In other jurisdictions, the fees for registration are calculated differently from Northern Ireland. In Scotland, the fee for registration is an annual fee while in England and Wales the fee is larger than Northern Ireland but enables a number of additional persons to be registered fee of change.

11. Additional Information

11.1. Not applicable