

**2004 No. 526**

**POLICE**

**The Police Act 1997 (Criminal Records) (Protection of Children) (Scotland) Regulations 2004**

*Made* - - - - *2nd December 2004*

*Laid before the Scottish Parliament* *2nd December 2004*

*Coming into force* - - *10th January 2005*

The Scottish Ministers, in exercise of the powers conferred on them by sections 113(3A)(b) and (d), 115(6A)(b) and (d), and 125(1) of the Police Act 1997(a) and of all other powers enabling them in that behalf hereby make the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Police Act 1997 (Criminal Records) (Protection of Children) (Scotland) Regulations 2004 and shall come into force on 10th January 2005.

(2) These Regulations extend to Scotland only.

**Interpretation**

2. In these Regulations—

“the applicant” means an applicant for a criminal record certificate under section 113 or an enhanced criminal record certificate under section 115 of the 1997 Act; and

“the 1997 Act” means the Police Act 1997.

**Lists kept under section 1 of the Protection of Children Act 1999 - prescribed details**

3. In the case of an applicant included in the list kept under section 1 of the Protection of Children Act 1999(b) the following details are prescribed for the purposes of sections 113(3A)(b) and 115(6A)(b) of the 1997 Act—

- (a) the fact that the applicant is included in the list;
- (b) whether any appeal against inclusion in the list is pending; and
- (c) whether inclusion in the list is provisional.

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(a) 1997 c.50. Sections 113(3A) and 115(6A) were inserted by section 8(1) and (2) respectively of the Protection of Children Act 1999. Section 12(1) of the Protection of Children (Scotland) Act 2003 (asp 5) extended the amendments made to sections 113(3A) and 115(6A) to Scotland. Section 113(3A) was amended by sections 102(1), 104(1), (2)(a), 116 and Schedule 4, paragraph 25(1) of the Care Standards Act 2000 (c.14), section 215 and Schedule 21, paragraph 72 of the Education Act 2002 (c.32); and section 135(1) and (2) of the Adoption and Children Act 2002 (c.38). Section 115(6A) was amended by sections 102(2), 104(1), (3)(b), 116 and Schedule 4, paragraph 25(b) of 2000 c.14, section 215 and Schedule 21 paragraph 73 of 2002 c.32, and section 135(1) and (3) of 2002 c.38. Section 126(1) of 1997 c.50 contains a definition of “prescribed” relevant to these regulations. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1999 c.14; section 1 was amended by sections 95 to 98 of the Care Standards Act 2000 (c.14).

**Directions made under section 142 of the Education Act 2002 - prescribed details**

4. In the case of an applicant subject to a direction made under section 142 of the Education Act 2002(a) the following details of the circumstances in which it was given are hereby prescribed for the purposes of sections 113(3A)(d) and 115(6A)(d) of the Act—

- (a) the fact that the applicant is subject to such a direction;
- (b) the date the direction was given;
- (c) details of any prohibition or restriction or other condition on the applicant's employment;
- (d) details of any circumstances specified in the direction relative to the applicant's employment; and
- (e) the grounds on which the direction was made.

St Andrews House  
Edinburgh  
2nd December 2004

*HUGH HENRY*  
Authorised to sign by the Scottish Ministers

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(a) 2002 c.32.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 113 and 115 of the Police Act 1997 provide for the issue by the Scottish Ministers of a standard or enhanced criminal records certificate. These Regulations prescribe certain details which are to be included in such certificates. Regulation 3 prescribes details which must be included where an applicant for a relevant certificate is included in the list kept under section 1 of the Protection of Children Act 1999 (“the 1999 Act list”). Regulation 4 prescribes details which must be included where an applicant for a relevant certificate is subject to a direction under section 142 of the Education Act 2002 (“the 2002 Act”). An applicant included on the 1999 Act list (otherwise than provisionally) or subject to a direction under section 142(1)(a) of the 2002 Act given on the grounds in section 142(4)(b) is included within the meaning of “disqualified from working with children” in the Protection of Children (Scotland) Act 2003.

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