
DRAFT STATUTORY INSTRUMENTS

2012 No.

The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012

PART 3

Transfer of the Secretary of State's functions

CHAPTER 1

Transfer of the Secretary of State's functions under Part 5 of the 1997 Act

Amendment of Part 5 of the 1997 Act

36. The 1997 Act is amended as follows.

37. In the following provisions for “the Secretary of State” and “The Secretary of State”, in each place where it occurs, substitute “DBS”—

- (a) section 112(1) (but not paragraph (b) of subsection (1)) and (4);
- (b) section 113A(1), (2A), (4), (5) and (9)(1);
- (c) section 113B(1), (2A), (4), (6), (7), (8), (9) and (12)(2);
- (d) section 113E(2) and (4)(3);
- (e) section 114(1) (but not paragraph (b) of subsection (1));
- (f) section 116(1) (but not paragraph (b) of subsection (1));
- (g) section 116A(1), (2), (4), (5) and (7)(4);
- (h) section 117(1), (1A), (1B) and (2)(5);
- (i) section 117A(5) and (6)(6);
- (j) section 118(1), (2), (2ZA), (2A) (but not paragraph (d) of subsection (2A)), (3A) and (3B)(7);

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- (1) Section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by section 63(1) of, and paragraph 14 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006, section 50 of the Criminal Justice and Immigration Act 2008 (c. 4), S.I. 2009/203, and sections 79(2), 80(1) and 115(1) and (2) of, and paragraphs 35 and 36 of Schedule 9 and Parts 5 and 6 of Schedule 10 to, the Protection of Freedoms Act 2012.
 - (2) Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 and amended by section 63(1) of, and paragraph 14 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006, section 50 of the Criminal Justice and Immigration Act 2008, S.I. 2009/203, and sections 79(2), 80(1), 82 and 115(1) and (2) of, and paragraphs 35 and 37 of Schedule 9 and Parts 5 and 6 of Schedule 10 to, the Protection of Freedoms Act 2012.
 - (3) Section 113E was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005.
 - (4) Section 116A was prospectively inserted by section 83 of the Protection of Freedoms Act 2012.
 - (5) Section 117(1A) was inserted by section 82(4) of the Protection of Freedoms Act; section 117(1B) was prospectively inserted by section 115(1) of, and paragraphs 104 and 108 of Schedule 9 to, the Protection of Freedoms Act 2012.
 - (6) Section 117A was inserted by section 82(5) of the Protection of Freedoms Act 2012.
 - (7) Section 118(2ZA) was prospectively inserted by section 85 of the Policing and Crime Act 2009; section 118(2A) was inserted by section 164 of the Serious Organised Crime and Police Act 2005; section 118(3A) and (3B) was prospectively inserted by section 115(1) of, and paragraphs 104 and 109(1) and (3) of Schedule 9 to, the Protection of Freedoms Act 2012.

- (k) section 119(1), (1B), (3), (4), (5) and (8)(8);
- (l) section 119B(5)(ca)(9);
- (m) section 120(1), (2), (5) and (6);
- (n) section 120ZA(2), (3) and (4)(10);
- (o) section 120A(1), (2), (3) and (4)(11);
- (p) section 120AA(1), (2), (3) and (6)(12);
- (q) section 120AB(1), (2), (3), (4), (5), (6) and (8)(13);
- (r) section 120AC(1), (3), (4), (5), (6) and (7)(14);
- (s) section 120AD(1) and (2)(15);
- (t) section 122(3), (3A) and (3B)(16);
- (u) section 124A(1)(17);
- (v) section 125B(1)(18).

38. In section 113A(5)—

- (a) in paragraph (a) for “his” substitute “its”; and
- (b) in paragraph (b) for “him” substitute “it”.

39. In section 113B—

- (a) in subsection (7) for “his” substitute “its”; and
- (b) in subsection (8) for “he” substitute “it”.

40. In section 117(2) for “he” in both places where it occurs substitute “it”.

41. In section 118—

- (a) in subsection (1) for “he” substitute “it”; and
- (b) in subsection (2A) for “he” substitute “it”.

42. In section 119—

- (a) in subsection (1) for “him” substitute “it”; and
- (b) in subsection (1B) for “he” substitute “it”;

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- (8) Section 119(1B) was inserted by section 63(1) of, and paragraph 14 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006.
 - (9) Section 119B was inserted by section 28 of the Safeguarding Vulnerable Groups Act 2006; section 119B(5)(ca) was prospectively inserted by section 115(1) of, and paragraphs 104 and 111 of Schedule 9 to, the Protection of Freedoms Act 2012.
 - (10) Section 120ZA was inserted by section 328 of, and paragraph 1 and 7 of Schedule 35 to, the Criminal Justice Act 2003 (c. 44) and amended by section 163(3) of, and paragraphs 1 and 7 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006 and S.I. 2009/203.
 - (11) Section 120A was inserted by section 134(1) of the Criminal Justice and Police Act 2001 (c. 16) and amended by S.I. 2009/203, sections 163(3) and 165(2) of, and paragraphs 1 and 8 of Schedule 14 to, the Serious Organised Crime and Police Act 2005, section 96 of the Policing and Crime Act 2009 and section 115(1) and (2) of, and paragraphs 35 and 42 to Schedule 9 and Part 5 of Schedule 10 to, the Protection of Freedoms Act 2012.
 - (12) Section 120AA was inserted by section 328 of, and paragraphs 1 and 9 of Schedule 35 to, the Criminal Justice Act 2003 and amended by S.I. 2009/203 and section 81 of the Protection of Freedoms Act 2012.
 - (13) Section 120AB was inserted by section 328 of, and paragraphs 1 and 9 of Schedule 35 to, the Criminal Justice Act 2003 and amended by S.I. 2009/203.
 - (14) Section 120AC was prospectively inserted by section 79(3) of the Protection of Freedoms Act 2012.
 - (15) Section 120AD was prospectively inserted by section 79(3) of the Protection of Freedoms Act 2012.
 - (16) Section 122(3A) and (3B) was inserted by section 29(1) and (4) of the Safeguarding Vulnerable Groups Act 2006.
 - (17) Section 124A was inserted by section 328 of, and paragraphs 1 and 11 of Schedule 35 to, the Criminal Justice Act 2003 and amended by section 165(3) of the Serious Organised Crime and Police Act 2005 and was prospectively amended by section 115(1) and (2) of, and paragraphs 104 and 116 of Schedule 9 to and Part 6 of Schedule 10 to, the Protection of Freedoms Act 2012.
 - (18) Section 125B was inserted by section 97(1) of the Policing and Crime Act 2009 and prospectively amended by section 115(1) of, and paragraphs 104 and 117 of Schedule 9 to, the Protection of Freedoms Act 2012.

- (c) in subsection (3) for “he” substitute “the Secretary of State”;
 - (d) in subsection (4)—
 - (i) for “him” substitute “it”; and
 - (ii) for “his” substitute “its”; and
 - (e) in subsection (5) for “him” substitute “it”.
- 43.** In section 120(2)(a) for “him” substitute “it”.
- 44.** In section 120A(1) for “him” substitute “it”.
- 45.** In section 120AB—
- (a) in subsection (1) for “his” substitute “its”; and
 - (b) in subsection (4)(b) for “he” substitute “it”.
- 46.** In section 122(3B) for “he” substitute “it”.
- 47.** In section 126(1) after the definition of “chief officer” insert—
- ““DBS” means the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012;”