



Police Act 1997

1997 CHAPTER 50

PART I

THE NATIONAL CRIMINAL INTELLIGENCE SERVICE

The Service Authority

^{F1} The Service Authority for the National Criminal Intelligence Service.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Functions

^{F2} General functions of the NCIS Service Authority and NCIS.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F3} Objectives.

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F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F14 Service plans.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F15 Annual reports.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Director General and other members

F16 Appointment of Director General.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F17 Removal of Director General by the Authority.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F18 Deputy Director General.

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F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F19 Members of NCIS.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F19A Removal of certain members appointed under section 9

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Functions of Director General

F110 General function of Director General.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F111 Reports by Director General to the Authority.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F112 Responsibility for co-ordination of police and Security Service activities.

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Service Authority’s officers and employees

^{F1}13 Officers and employees.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}14 Appointment of clerk.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}15 Appointment of persons not employed by the NCIS Service Authority.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Financial provisions

^{F1}16 NCIS service fund.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

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F1 16A Budget statement

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 17 Grants from the Secretary of State

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 17A Provision supplemental to section 17

.....

Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 18

Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 18A Financing by the Scottish Ministers

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 19 Charges.

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F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F120 Acceptance of gifts and loans.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F121 Pensions and gratuities.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F121A Accounts

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

General provisions

F122 Collaboration agreements.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F123 Aid by and for NCIS.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 24 **Provision of special services.**

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Central supervision and direction

F1 25 **General duty of the Secretary of State and the Scottish Ministers**

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 26 **Setting of objectives.**

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 27 **Setting of performance targets.**

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 28 **Codes of practice.**

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F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 28A Codes of practice for Director General of NCIS

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 29 Removal of Director General etc.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 30 Power to give directions to NCIS Service Authority

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 31 Reports from NCIS Service Authority.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 31A Power to give directions as to action plans

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^{F1}31B Procedure for giving directions by the Secretary of State

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}31C Procedure for giving directions by the Scottish Ministers

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}32 Reports from Director General.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}33 Criminal statistics.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}34 Inquiries.

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^{F1}34A Regulations for NCIS

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}35 Regulations as to standard of equipment.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}36 Common services.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Discipline and complaints

^{F1}37 Discipline regulations.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}38 Appeals.

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^{F1}39 Complaints.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}40 Information as to the manner of dealing with complaints etc.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Miscellaneous

^{F1}41 Arrangements for consultation.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}42 Liability for wrongful acts of constables etc.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}43 Causing disaffection.

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^{F1}44 Orders governing NCIS Service Authority.

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Textual Amendments

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

General

^{F1}45 Orders and regulations.

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Textual Amendments

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}46 Interpretation of Part I.

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Textual Amendments

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

PART II

THE NATIONAL CRIME SQUAD

Modifications etc. (not altering text)

- C1** **Pt. II** (ss. 47-90): Power to continue conferred (11.5.2001) by [2001 c. 16](#), **ss. 109(2)(c)(i)**, 138

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The Service Authority

F147 The Service Authority for the National Crime Squad.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Functions

F148 General functions of the NCS Service Authority and the National Crime Squad.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F149 Objectives.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F150 Service plans.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F151 Annual reports.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Director General and other members

^{F1}52 Appointment of Director General.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}53 Removal of Director General by the Authority.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}54 Deputy Director General.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}55 Members of the National Crime Squad.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}55A Removal of certain members appointed under section 55

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Functions of Director General

^{F1}56 **General function of Director General.**

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}57 **Reports by Director General to the Authority.**

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Service Authority's officers and employees

^{F1}58 **Officers and employees.**

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}59 **Appointment of clerk.**

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

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F1 60 Appointment of persons not employed by the NCS Service Authority.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Financial provisions

F1 61 NCS service fund.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 61A Budget statement

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 62 Grants from the Secretary of State

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 62A Provision supplemental to section 62

.....

Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

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F1 63 Initial financing of NCS Service Authority.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 64 Charges.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 65 Acceptance of gifts and loans.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 66 Pensions and gratuities.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 66A Accounts

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 67 Revenue accounts and capital finance.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 68 Financial administration.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Special services

F1 69 Provision of special services.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Central supervision and direction

F1 70 General duty of Secretary of State.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F1 71 Setting of objectives.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

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F172 Setting of performance targets.

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Textual Amendments

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F173 Codes of practice.

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Textual Amendments

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F173A Codes of practice for Director General of NCS

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Textual Amendments

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F174 Removal of Director General etc.

.....

Textual Amendments

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F175 Power to give directions to NCS Service Authority

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Textual Amendments

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F176 Reports from NCS Service Authority.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F176A Power to give directions as to action plans

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F176B Procedure for giving directions under sections 75 and 76A

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F177 Reports from Director General.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F178 Criminal statistics.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

F179 Inquiries.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}79A Regulations for NCS

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}80 Regulations as to standard of equipment.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}80A Regulation of procedures and practices

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Discipline and complaints

^{F1}81 Discipline regulations.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}82 Appeals.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}83 Complaints.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}84 Information as to the manner of dealing with complaints etc.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

Miscellaneous

^{F1}85 Arrangements for consultation.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}86 Liability for wrongful acts of constables etc.

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Textual Amendments

F1 Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

^{F1}87 Causing disaffection.

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Textual Amendments

- F1** Ss. 1-87 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 95, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(2)(7))

88 Application to NCS Service Authority of local authority enactments.

Schedule 6 (which amends local authority enactments applying to police authorities so as to apply those enactments in a similar way to the NCS Service Authority) shall have effect.

Commencement Information

- I1** [S. 88](#) partly in force; [s. 88](#) not in force at Royal Assent, see [s. 135](#); [s. 88](#) in force for certain purposes at: 23.7.1997 by [S.I. 1997/1377](#), [art. 4](#); 31.10.1997 by [S.I. 1997/2390](#), [art. 2](#) (with [arts. 3-7](#) (of which [arts. 4-7](#) were revoked (1.4.1998) by [S.I. 1998/354](#), [art. 7](#))); 1.4.1998 by [S.I. 1998/354](#), [art. 2](#)

General

^{F2}89 Orders and regulations.

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Textual Amendments

- F2** [S. 89](#) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 96, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd)

^{F3}90 Interpretation of Part II.

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Textual Amendments

- F3** [S. 90](#) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 4 para. 96, [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd)

PART III

AUTHORISATION OF ACTION IN RESPECT OF PROPERTY

Modifications etc. (not altering text)

- C2** Pt. 3 (ss. 91-108) amended (S.) (29.9.2000) by [2000 asp 11](#), [s. 24\(2\)\(b\)](#) (with [s. 30](#)); S.S.I. 2000/341, [art. 2](#)
- C3** Pt. 3: power to apply (with modifications) conferred (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), [s. 19\(2\)\(b\)](#); S.I. 2002/2306, [art. 2\(b\)\(v\)](#)

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C4 Pt. III modified (1.4.2004) by [The Independent Police Complaints Commission \(Investigatory Powers\) Order 2004 \(S.I. 2004/815\)](#), arts. 1(1), 2

The Commissioners

91 The Commissioners.

- (1) The Prime Minister [^{F4}after consultation with the Scottish Ministers], shall appoint for the purposes of this Part—
 - (a) a Chief Commissioner, and
 - (b) such number of other Commissioners as the Prime Minister thinks fit.
- (2) The persons appointed under subsection (1) shall be persons who hold or have held high judicial office within the meaning of [^{F5}Part 3 of the Constitutional Reform Act 2005 or are or have been members of the Judicial Committee of the Privy Council].
- (3) Subject to subsections (4) to (7), each Commissioner shall hold and vacate office in accordance with the terms of his appointment.
- (4) Each Commissioner shall be appointed for a term of three years.
- (5) A person who ceases to be a Commissioner (otherwise than under subsection (7)) may be reappointed under this section.
- [^{F6}(6) Subject to subsection (7), a Commissioner shall not be removed from office before the end of the term for which he is appointed unless—
 - (a) a resolution approving his removal has been passed by each House of Parliament; and
 - (b) a resolution approving his removal has been passed by the Scottish Parliament.]
- (7) A Commissioner may be removed from office by the Prime Minister if after his appointment—
 - (a) a bankruptcy order is made against him or his estate is sequestrated or he makes a composition or arrangement with, or grants a trust deed for, his creditors;
 - (b) a disqualification order under the ^{M1}Company Directors Disqualification Act 1986 or [^{F7}the Company Directors Disqualification (Northern Ireland) Order 2002], or an order under section 429(2)(b) of the ^{M2}Insolvency Act 1986 (failure to pay under county court administration order), is made against him [^{F8}or his disqualification undertaking is accepted under section 7 or 8 of the Company Directors Disqualification Act 1986][^{F9}or under the Company Directors Disqualification (Northern Ireland) Order 2002]; or
 - (c) he is convicted in the United Kingdom, the Channel Islands or the Isle of Man of an offence and has passed on him a sentence of imprisonment (whether suspended or not).
- (8) The Secretary of State shall pay to each Commissioner [^{F10}, other than a commissioner carrying out functions as mentioned in subsection (8A),] such allowances as the Secretary of State considers appropriate.

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- [^{F11}(8A) The Scottish Ministers shall pay to any Commissioner who carries out his functions under this Part wholly or mainly in Scotland such allowances as the Scottish Ministers consider appropriate.]
- (9) The Secretary of State shall, after consultation with the Chief Commissioner [^{F12}and subject to the approval of the Treasury as to numbers], provide the Commissioners [^{F13}and any Assistant Surveillance Commissioners holding office under section 63 of the Regulation of Investigatory Powers Act 2000][^{F14}, other than any Commissioner carrying out functions as mentioned in subsection (9A),] with such staff as the Secretary of State considers necessary for the discharge of their functions.
- [^{F15}(9A) The Scottish Ministers shall, after consultation with the Chief Commissioner, provide any Commissioner who carries out his functions under this Part wholly or mainly in Scotland with such staff as the Scottish Ministers consider necessary for the discharge of his functions.]
- (10) The decisions of the Chief Commissioner or, subject to sections 104 and 106, any other Commissioner (including decisions as to his jurisdiction) shall not be subject to appeal or liable to be questioned in any court.

Textual Amendments

- F4** Words in s. 91(1) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(a)**; S.I. 1998/3178, **art. 3**
- F5** Words in s. 91(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 17 para. 27**; S.I. 2009/1604, **art. 2(e)**
- F6** S. 91(6) substituted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(b)**; S.I. 1998/3178, **art. 3**
- F7** Words in s. 91(7)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 169** (with art. 10)
- F8** Words in s. 91(7)(b) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 22(2)**; S.I. 2001/766, **art. 2(1)(a)** (subject to the transitional provisions and savings in art. 3)
- F9** Words in s. 91(7)(b) inserted (E.W.S.) (with application in accordance with art. 1(2) of the amending S.I.) by The Insolvency Act 2000 (Company Directors Disqualification Undertakings) Order 2004 (S.I. 2004/1941), art. 1(2), **Sch. para. 10**
- F10** Words in s. 91(8) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(c)**; S.I. 1998/3178, **art. 3**
- F11** S. 91(8A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(d)**; S.I. 1998/3178, **art. 3**
- F12** Words in s. 91(9) inserted (25.9.2000) by 2000 c. 23, s. 82, **Sch. 4 para. 8(1)(a)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F13** Words in s. 91(9) inserted (25.9.2000) by 2000 c. 23, s. 82, **Sch. 4 para. 8(1)(b)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F14** Words in s. 91(9) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(f)**; S.I. 1998/3178, **art. 3**
- F15** S. 91(9A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(2)(g)**; S.I. 1998/3178, **art. 3**.

Modifications etc. (not altering text)

- C5** S. 91(3)-(8) applied (25.9.2000) by 2000 c. 23, s. 63(5) (with s. 82(3)); S.I. 2000/2543, **art. 2**

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Commencement Information

- I2** S. 91 wholly in force at 22.2.1999; s. 91 not in force at Royal Assent see s.135; s. 91 (1)–(9) in force at 1.9.1997 by [S.I. 1997/1930](#), [art. 2](#)(with art. 2(3)); S. 91(10) in force at 22.2.1999 by [S.I. 1999/151](#), [art. 2](#)

Marginal Citations

- M1** 1986 c. 46.
M2 1986 c. 45.

Authorisations

92 Effect of authorisation under Part III.

No entry on or interference with property or with wireless telegraphy shall be unlawful if it is authorised by an authorisation having effect under this Part.

93 Authorisations to interfere with property etc.

- (1) Where subsection (2) applies, an authorising officer may authorise—
- (a) the taking of such action, in respect of such property in the relevant area, as he may specify,
 - ^[F16](ab) the taking of such action falling within subsection (1A), in respect of property outside the relevant area, as he may specify, or]
 - (b) the taking of such action in the relevant area as he may specify, in respect of wireless telegraphy.

^[F17](1A) The action falling within this subsection is action for maintaining or retrieving any equipment, apparatus or device the placing or use of which in the relevant area has been authorised under this Part or Part II of the Regulation of Investigatory Powers Act 2000 or under any enactment contained in or made under an Act of the Scottish Parliament which makes provision equivalent to that made by Part II of that Act of 2000.

(1B) Subsection (1) applies where the authorising officer is a ^[F18]member of the staff of the Serious Organised Crime Agency, ^[F19]an officer of Revenue and Customs ^[F20]or an officer of the Office of Fair Trading] with the omission of—

- (a) the words “in the relevant area”, in each place where they occur; and
- (b) paragraph (ab).]

- (2) This subsection applies where the authorising officer believes—
- (a) that it is necessary for the action specified to be taken ^[F21]for the purpose of preventing or detecting] serious crime, and
 - ^[F22](b) that the taking of the action is proportionate to what the action seeks to achieve.]

^[F23](2A) Subsection (2) applies where the authorising officer is the Chief Constable or the Deputy Chief Constable of the ^[F24]Police Service of Northern Ireland] as if the reference in subsection (2)(a) to preventing or detecting serious crime included a reference to the interests of national security.

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[Where the authorising officer is the chairman of the Office of Fair Trading, the only ^{F25}(2AA) purpose falling within subsection (2)(a) is the purpose of preventing or detecting an offence under section 188 of the Enterprise Act 2002.]

(2B) The matters to be taken into account in considering whether the requirements of subsection (2) are satisfied in the case of any authorisation shall include whether what it is thought necessary to achieve by the authorised action could reasonably be achieved by other means.]

(3) An authorising officer shall not give an authorisation under this section except on an application made—

[^{F26}(za) if the authorising officer is within subsection (5)(a) to (c)—

(i) by a member of the officer's police force; or

(ii) in a case where the chief officer of police of that force (“the authorising force”) has made an agreement under section 23(1) of the Police Act 1996 with the chief officer of police of one or more other police forces, by a member of a collaborative force;]

(a) if the authorising officer is within [^{F27}subsection (5)(d)] to [^{F28}(ea) or (ee)], by a member of his police force,

[^{F29}(aa) if the authorising officer is within subsection (5)(eb) to (ed), by a member, as the case may be, of the [^{F30}Royal Navy Police], the Royal Military Police or the Royal Air Force Police;]

[^{F31}(b) if the authorising officer is within subsection (5)(f), by a member of the staff of the Serious Organised Crime Agency,]

(d) if the authorising officer is within subsection (5)(h), by [^{F32}an officer of Revenue and Customs][^{F33}, or

(e) if the authorising officer is within subsection (5)(i), by an officer of the Office of Fair Trading.]

[^{F34}(f) if the authorising officer is within subsection (5)(j), by a police member of the Scottish Crime and Drug Enforcement Agency appointed in accordance with paragraph 7 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10).]

[^{F35}(3A) For the purposes of subsection (3)(za)(ii)—

(a) a police force is a collaborative force if—

(i) its chief officer of police is a party to the agreement mentioned in that provision; and

(ii) its members are permitted by the terms of the agreement to make applications for authorisations under this section to the authorising officer of the authorising force; and

(b) a reference to a police force is to the following—

(i) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);

(ii) the metropolitan police force; and

(iii) the City of London police force.]

(4) For the purposes of subsection (2), conduct which constitutes one or more offences shall be regarded as serious crime if, and only if,—

(a) it involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose, or

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- (b) the offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more,

and, where the authorising officer is within subsection (5)(h), it relates to an assigned matter within the meaning of section 1(1) of the ^{M3}Customs and Excise Management Act 1979.

(5) In this section “authorising officer” means—

- (a) the chief constable of a police force maintained under section 2 of the ^{M4}Police Act 1996 (maintenance of police forces for areas in England and Wales except London);
- (b) the Commissioner, or an Assistant Commissioner, of Police of the Metropolis;
- (c) the Commissioner of Police for the City of London;
- (d) the chief constable of a police force maintained under or by virtue of section 1 of the ^{M5}Police (Scotland) Act 1967 (maintenance of police forces for areas in Scotland);
- (e) the Chief Constable or a Deputy Chief Constable of the [^{F24}Police Service of Northern Ireland];
- [^{F36}(ea) the Chief Constable of the Ministry of Defence Police;
- (eb) the Provost Marshal of the [^{F37}Royal Navy Police];
- (ec) the Provost Marshal of the Royal Military Police;
- (ed) the Provost Marshal of the Royal Air Force Police;
- (ee) the Chief Constable of the ^{F38}British Transport Police;]
- [^{F39}(f) the Director General of the Serious Organised Crime Agency, or any member of the staff of that Agency who is designated for the purposes of this paragraph by that Director General;]
- [^{F40}(h) an officer of Revenue and Customs who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000 and who is designated for the purposes of this paragraph by the Commissioners for Her Majesty's Revenue and Customs;]
- [^{F41}(i) the chairman of the Office of Fair Trading.]
- [^{F42}(j) the Director General of the Scottish Crime and Drug Enforcement Agency.]

(6) In this section “relevant area”—

- (a) in relation to a person within paragraph (a), (b) or (c) of subsection (5) [^{F43}to whom an application is made by virtue of subsection (3)(za)(i)], means the area in England and Wales for which his police force is maintained;
- [^{F44}(aa) in relation to a person within any of those paragraphs to whom an application is made by virtue of subsection (3)(za)(ii), means the area in England and Wales—
 - (i) for which any collaborative force (within the meaning of subsection (3A)) is maintained; and
 - (ii) which is specified in relation to members of that force in the agreement mentioned in subsection (3)(za)(ii);]
- (b) in relation to a person within paragraph (d) of [^{F45}subsection (5)] means the area in Scotland for which his police force is maintained;
- (c) in relation to a person within paragraph (e) of that subsection, means Northern Ireland;

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- [^{F46}(ca) in relation to a person within paragraph (ea), means any place where, under section 2 of the ^{M6}Ministry of Defence Police Act 1987, the members of the Ministry of Defence Police have the powers and privileges of a constable;
- (cb) in relation to a person within paragraph (ee), means the United Kingdom;]
- [^{F47}(cc) in relation to the Director General of the Scottish Crime and Drug Enforcement Agency, means Scotland,]
- ^{F48}(d)
- ^{F49}(e)
- ^{F50}(f)

and in each case includes the adjacent United Kingdom waters.

[^{F51}(6A) For the purposes of any authorisation by a person within paragraph (eb), (ec) or (ed) of subsection (5) property is in the relevant area or action in respect of wireless telegraphy is taken in the relevant area if, as the case may be—

- (a) the property is owned, occupied, in the possession of or being used by a person [^{F52}who is subject to service law or is a civilian subject to service discipline]; or
- (b) the action is taken in relation to the use of wireless telegraphy by such a person.

[^{F53}(6B) In subsection (6A) “subject to service law” and “civilian subject to service discipline” have the same meanings as in the Armed Forces Act 2006.]

(7) The powers conferred by, or by virtue of, this section are additional to any other powers which a person has as a constable either at common law or under or by virtue of any other enactment and are not to be taken to affect any of those other powers.]

Textual Amendments

- F16** S. 93(1)(ab) substituted for word “or” (25.9.2000) by 2000 c. 23, s. 75(2) (with s. 82(3)); S.I. 2000/2543, art. 2
- F17** S. 93(1A)(1B) inserted (25.9.2000) by 2000 c. 23, s. 75(3) (with s. 82(3)); S.I. 2000/2543, art. 2
- F18** Words in s. 93(1B) inserted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 97(2); S.I. 2006/378, art. 4(1), Sch. para. 10 (with art. 4(3))
- F19** Words in s. 93(1B) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 12 para. 1(a); S.I. 2008/219, art. 2(b)
- F20** Words in s. 93(1B) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(a), 279; S.I. 2003/1397, art. 2(1), Sch.
- F21** Words in s. 93(2)(a) substituted (25.9.2000) by 2000 c. 23, s. 75(4)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F22** S. 93(2)(b) substituted (25.9.2000) by 2000 c. 23, s. 75(4)(b) (with s. 82(3)); S.I. 2000/2543, art. 2
- F23** S. 93(2A)(2B) inserted (25.9.2000) by 2000 c. 23, s. 75(5) (with s. 82(3)); S.I. 2000/2543, art. 2
- F24** Words in s. 93(2A)(5)(e) substituted (4.11.2001) by 2000 c. 32, s. 78(1), Sch. 6 para. 20(2)(b); S.R. 2001/396, art. 2, Sch.
- F25** S. 93(2AA) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(b), 279; S.I. 2003/1397, art. 2(1), Sch.
- F26** S. 93(3)(za) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 6(2), 116(1); S.I. 2009/3096, art. 3(a)
- F27** Words in s. 93(3)(a) substituted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 6(3), 116(1); S.I. 2009/3096, art. 3(a)
- F28** Words in s. 93(3)(a) substituted (25.9.2000) by 2000 c. 23, s. 82(1), Sch. 4 para. 8(2)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F29** S. 93(3)(aa) inserted (25.9.2000) by 2000 c. 23, s. 82, Sch. 4 para. 8(2)(b) (with s. 82(3)); S.I. 2000/2543, art. 2

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- F30** Words in s. 93(3)(aa) substituted (4.6.2007) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 146(2)**; S.I. 2007/1442, art. 2(1)
- F31** S. 93(3)(b) substituted for s. 93(3)(b)(c) (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 97(3)**; S.I. 2006/378, art. 4(1), Sch. para. 10 (with art. 4(3))
- F32** Words in s. 93(3)(d) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 12 para. 1(b)**; S.I. 2008/219, art. 2(b)
- F33** S. 93(3)(e) and word inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 200(2)(c)**, 279; S.I. 2003/1397, art. 2(1), Sch.
- F34** S. 93(3)(f) inserted (S.) (1.4.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **sch. 6 para. 6(2)(a)**; S.S.I. 2007/84, art. 3(3)
- F35** S. 93(3A) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), **ss. 6(4)**, 116(1); S.I. 2009/3096, art. 3(a)
- F36** S. 93(5)(ea)-(ee) inserted (25.9.2000) by 2000 c. 23, **s. 75(6)(a)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F37** Words in s. 93(5)(eb) substituted (4.6.2007) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 146(3)**; S.I. 2007/1442, art. 2(1)
- F38** S. 93 amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 5 para. 4**; S.I. 2004/1572, art. 3(jjj)
- F39** S. 93(5)(f) substituted for s. 93(5)(f)(g) (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 97(4)**; S.I. 2006/378, art. 4(1), Sch. para. 10 (with art. 4(3))
- F40** S. 93(5)(h) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 12 para. 1(c)**; S.I. 2008/219, art. 2(b)
- F41** S. 93(5)(i) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 200(2)(d)**, 279; S.I. 2003/1397, art. 2(1), **Sch.**
- F42** S. 93(5)(j) inserted (S.) (1.4.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **sch. 6 para. 6(2)(b)**; S.S.I. 2007/84, art. 3(3)
- F43** Words in s. 93(6)(a) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), **ss. 6(5)(a)**, 116(1); S.I. 2009/3096, art. 3(a)
- F44** S. 93(6)(aa) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), **ss. 6(5)(b)**, 116(1); S.I. 2009/3096, art. 3(a)
- F45** Words in s. 93(6)(b) substituted (25.1.2010) by Policing and Crime Act 2009 (c. 26), **ss. 6(5)(c)**, 116(1); S.I. 2009/3096, art. 3(a)
- F46** S. 93(6)(ca)(cb) inserted (25.9.2000) by 2000 c. 23, **s. 75(7)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F47** S. 93(6)(cc) inserted (S.) (1.4.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **sch. 6 para. 6(2)(c)**; S.S.I. 2007/84, art. 3(3)
- F48** S. 93(6)(d) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 97(5), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(3))
- F49** S. 93(6)(e) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 97(5), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd) (with art. 4(3))
- F50** S. 93(6)(f) and the word “and” immediately preceding it repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F51** S. 93(6A)(6B) inserted (25.9.2000) by 2000 c. 23, **s. 75(8)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F52** Words in s. 93(6A)(a) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 146(4)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F53** S. 93(6B) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 146(5)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

- C6** S. 93 amended (S.) (29.9.2000) by 2000 asp 11, **s. 23(5)** (with s. 30); S.S.I. 2000/341, **art. 2**

Marginal Citations

- M3** 1979 c. 2.

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- M4 1996 c. 16.
- M5 1967 c. 77.
- M6 1987 c. 4.

94 Authorisations given in absence of authorising officer.

- (1) Subsection (2) applies where it is not reasonably practicable for an authorising officer to consider an application for an authorisation under section 93 and—
 - (a) if the authorising officer is within paragraph (b) [^{F54}, (e) or (f)] of section 93(5), it is also not reasonably practicable for the application to be considered by any of the other persons within the paragraph concerned; ^{F55} . . . [^{F56}or]
 - (b) if the authorising officer is within paragraph (a), (c) [^{F57}or (d)] of section 93(5), it is also not reasonably practicable for the application to be considered by his designated deputy ^{F58} ...
 - ^{F58}(c)
- (2) Where this subsection applies, the powers conferred on the authorising officer by section 93 may, in an urgent case, be exercised—
 - (a) where the authorising officer is within paragraph (a) or (d) of subsection (5) of that section, by a person holding the rank of assistant chief constable in his force;
 - (b) where the authorising officer is within paragraph (b) of that subsection, by a person holding the rank of commander in the metropolitan police force;
 - (c) where the authorising officer is within paragraph (c) of that subsection, by a person holding the rank of commander in the City of London police force;
 - (d) where the authorising officer is within paragraph (e) of that subsection, by a person holding the rank of assistant chief constable in the [^{F59}Police Service of Northern Ireland];
 - ^{F60}(da) where the authorising officer is within paragraph (ea) of that subsection, by a person holding the rank of deputy or assistant chief constable in the Ministry of Defence Police;
 - (db) where the authorising officer is within paragraph (eb) of that subsection, by a person holding the position of assistant Provost Marshal in the [^{F61}Royal Navy Police];
 - (dc) where the authorising officer is within paragraph (ec) or (ed) of that subsection, by a person holding the position of deputy Provost Marshal in the Royal Military Police or, as the case may be, in the Royal Air Force Police;
 - (dd) where the authorising officer is within paragraph (ee) of that subsection, by a person holding the rank of deputy or assistant chief constable in the ^{F62}British Transport Police;]
 - ^{F63}(e) where the authorising officer is within paragraph (f) of that subsection, by a person designated for the purposes of this section by the Director General of the Serious Organised Crime Agency;]
 - (f) where the authorising officer is within paragraph (h) of that subsection, [^{F64}by an officer of Revenue and Customs who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000 and who is designated by the Commissioners for Her Majesty's Revenue and Customs] for the purposes of this section.

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- [^{F65}(g) where the authorising officer is within paragraph (i) of that subsection, by an officer of the Office of Fair Trading designated by it for the purposes of this section.]
- [^{F66}(h) where the authorising officer is within paragraph (j) of that subsection, by a person mentioned in subsection (5).]
- ^{F67}(3)
- (4) In subsection (1), “designated deputy”—
- [^{F68}(a) in the case of an authorising officer within paragraph (a) of section 93(5), means—
- (i) the person who is the appropriate deputy chief constable for the purposes of section 12A(1) of the Police Act 1996, or
- (ii) the person holding the rank of assistant chief constable designated to act under section 12A(2) of that Act;]
- [^{F69}(aa) in the case of an authorising officer within paragraph (d) of section 93(5), means the person holding the rank of—
- (i) deputy chief constable and, where there is more than one person in a police force who holds that rank, who is designated as the officer having the powers and duties conferred on a deputy chief constable by section 5A(1) of the Police (Scotland) Act 1967; or
- (ii) assistant chief constable who is designated to act under section 5A(2) of that Act;]
- (b) in the case of an authorising officer within paragraph (c) of section 93(5), means the person authorised to act ^{F70}. . . under section 25 of the ^{M7}City of London Police Act 1839; ^{F71}. . .
- ^{F72}(c)
- (d)
- [^{F73}(5) The person referred to in subsection (2)(h) is—
- (a) the chief constable whose relevant area (within the meaning of section 93(6)(b)) is the area to which the application for authorisation relates; or
- (b) his designated deputy (within the meaning of subsection (4)(aa)); or
- (c) where it is not reasonably practicable for the chief constable or his designated deputy to consider the application, a person holding the rank of assistant chief constable in the chief constable's police force.]

Textual Amendments

- F54** Words in s. 94(1)(a) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 4 para. 98\(2\)\(a\)](#); S.I. 2006/378, art. 4(1), [Sch. para. 10](#)
- F55** Word at the end of s. 94(1)(a) repealed (25.9.2000) by [2000 c. 23](#), s. 82(2), [Sch. 5](#) (with s. 82(3)); S.I. 2000/2543, [art. 2](#)
- F56** Word in s. 94(1)(a) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 4 para. 98\(2\)\(b\)](#); S.I. 2006/378, art. 4(1), [Sch. para. 10](#)
- F57** Words in s. 94(1)(b) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 4 para. 98\(2\)\(c\)](#); S.I. 2006/378, art. 4(1), [Sch. para. 10](#)
- F58** S. 94(1)(c) and word repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 4 para. 98\(2\)\(d\)](#), [Sch. 17 Pt. 2](#); S.I. 2006/378, art. 4(1), [Sch. paras. 10, 13\(dd\)](#)
- F59** Words in s. 94(2)(d) substituted (4.11.2001) by [2000 c. 32](#), s. 78(1), [Sch. 6 para. 20\(2\)\(b\)](#); S.R. 2001/396, [art. 2](#), [Sch.](#)

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- F60** S. 94(2)(da)-(dd) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(4)(a)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F61** Words in s. 94(2)(db) substituted (4.6.2007) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 147**; S.I. 2007/1442, **art. 2(1)**
- F62** S. 94 amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 5 para. 4**; S.I. 2004/1572, **art. 3(jjj)**
- F63** S. 94(2)(e) substituted for s. 94(2)(e)(ea) (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 98(3)**; S.I. 2006/378, **art. 4(1)**, **Sch. para. 10**
- F64** Words in s. 94(2)(f) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 12 para. 2**; S.I. 2008/219, **art. 2(b)**
- F65** S. 94(2)(g) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 200(3)**, 279; S.I. 2003/1397, **art. 2(1)**, **Sch.**
- F66** S. 94(2)(h) inserted (S.) (1.4.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **sch. 6 para. 6(3)(a)**; S.S.I. 2007/84, **art. 3(3)**
- F67** S. 94(3) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 98(4)**, **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 4(1)**, **Sch. paras. 10, 13(dd)**
- F68** S. 94(4)(a) substituted (8.11.2006) by Police and Justice Act 2006 (c. 48), s. 53(2), **Sch. 14 para. 34**
- F69** S. 94(4)(aa) inserted (S.) (1.4.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **sch. 6 para. 6(3)(b)(ii)**; S.S.I. 2007/84, **art. 3(3)**
- F70** Words in s. 94(4) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F71** Word in s. 94(4) repealed (30.9.1998) by 1998 c. 37, s. 113(3), s. 120(2), **Sch. 10**; S.I. 1998/2327, **art. 2**
- F72** S. 94(4)(c) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 98(4)**, **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 4(1)**, **Sch. paras. 10, 13(dd)**
- F73** S. 94(5) inserted (S.) (1.4.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **sch. 6 para. 6(3)(c)**; S.S.I. 2007/84, **art. 3(3)**

Modifications etc. (not altering text)

- C7** S. 94 applied (*prosp.*) by 2000 c. 23, ss. 49, 83(2), **Sch. 2 para. 2(7)** (with s. 82(3))
- C8** S. 94 applied (1.10.2007) by Regulation of Investigatory Powers Act 2000 (c. 23), s. 83(2), **Sch. 2 para. 2(7)** (with s. 82(3)); S.I. 2007/2196, **art. 2(a)**

Marginal Citations

- M7** 1839 c. xciv.

95 Authorisations: form and duration etc.

- (1) An authorisation shall be in writing, except that in an urgent case an authorisation (other than one given by virtue of section 94) may be given orally.
- (2) An authorisation shall, unless renewed under subsection (3), cease to have effect—
 - (a) if given orally or by virtue of section 94, at the end of the period of 72 hours beginning with the time when it took effect;
 - (b) in any other case, at the end of the period of three months beginning with the day on which it took effect.
- (3) If at any time before an authorisation would cease to have effect the authorising officer who gave the authorisation, or in whose absence it was given, considers it necessary for the authorisation to continue to have effect for the purpose for which it was issued, he may, in writing, renew it for a period of three months beginning with the day on which it would cease to have effect.

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- (4) A person shall cancel an authorisation given by him if satisfied that ^[F74]the authorisation is one in relation to which the requirements of paragraphs (a) and (b) of section 93(2) are no longer satisfied.]
- (5) An authorising officer shall cancel an authorisation given in his absence if satisfied that ^[F74]the authorisation is one in relation to which the requirements of paragraphs (a) and (b) of section 93(2) are no longer satisfied].
- (6) If the authorising officer who gave the authorisation is within paragraph (b) ^[F75], (e) ^[F76] or (f)] of section 93(5), the power conferred on that person by subsections (3) and (4) above shall also be exercisable by each of the other persons within the paragraph concerned.
- (7) Nothing in this section shall prevent a designated deputy from exercising the powers conferred on an authorising officer within paragraph (a), (c) ^[F77] ^[F78] or (d)] ^[F78] (d) or (j)] of section 93(5) by subsections (3), (4) and (5) above.

Textual Amendments

- F74** Words in s. 95(4)(5) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(6)(a)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F75** Words in s. 95(6) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(6)(b)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F76** Words in s. 95(6) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 99(2)**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F77** Words in s. 95(7) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 99(3)**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F78** Words in s. 95(7) substituted (S.) (1.4.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **sch. 6 para. 6(4)**; S.S.I. 2007/84, art. 3(3)

96 Notification of authorisations etc.

- (1) Where a person gives, renews or cancels an authorisation, he shall, as soon as is reasonably practicable and in accordance with arrangements made by the Chief Commissioner, give notice in writing that he has done so to a Commissioner appointed under section 91(1)(b).
- (2) Subject to subsection (3), a notice under this section shall specify such matters as the Secretary of State may by order prescribe.
- (3) A notice under this section of the giving or renewal of an authorisation shall specify—
 - (a) whether section 97 applies to the authorisation or renewal, and
 - (b) where that section does not apply by virtue of subsection (3) of that section, the grounds on which the case is believed to be one of urgency.
- (4) Where a notice is given to a Commissioner under this section, he shall, as soon as is reasonably practicable, scrutinise the notice.
- (5) An order under subsection (2) shall be made by statutory instrument.
- (6) A statutory instrument which contains an order under subsection (2) shall not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.

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Commencement Information

- I3** S. 96 wholly in force at 22.2.1999; s. 96 not in force at Royal Assent see s. 135; s. 96 in force for certain purposes at 1.9.1997 by S.I. 1997/1930, art. 2 (with art. 2(3)); s. 96 in force at 22.2.1999 insofar as not already in force by S.I. 1999/151, art. 2

Authorisations requiring approval

97 Authorisations requiring approval.

- (1) An authorisation to which this section applies shall not take effect until—
 - (a) it has been approved in accordance with this section by a Commissioner appointed under section 91(1)(b), and
 - (b) the person who gave the authorisation has been notified under subsection (4).
- (2) Subject to subsection (3), this section applies to an authorisation if, at the time it is given, the person who gives it believes—
 - (a) that any of the property specified in the authorisation—
 - (i) is used wholly or mainly as a dwelling or as a bedroom in a hotel, or
 - (ii) constitutes office premises, or
 - (b) that the action authorised by it is likely to result in any person acquiring knowledge of—
 - (i) matters subject to legal privilege,
 - (ii) confidential personal information, or
 - (iii) confidential journalistic material.
- (3) This section does not apply to an authorisation where the person who gives it believes that the case is one of urgency.
- (4) Where a Commissioner receives a notice under section 96 which specifies that this section applies to the authorisation, he shall as soon as is reasonably practicable—
 - (a) decide whether to approve the authorisation or refuse approval, and
 - (b) give written notice of his decision to the person who gave the authorisation.
- (5) A Commissioner shall approve an authorisation if, and only if, he is satisfied that there are reasonable grounds for believing the matters specified in section 93(2).
- (6) Where a Commissioner refuses to approve an authorisation, he shall, as soon as is reasonably practicable, make a report of his findings to the authorising officer who gave it or in whose absence it was given^{F79} . . .

[^{F80}(6A) The reference in subsection (6) to the authorising officer who gave the authorisation or in whose absence it was given shall be construed, in the case of an authorisation given by or in the absence of a person within paragraph (b) [^{F81}or (e)] of section 93(5), as a reference to the Commissioner of Police [^{F82}or, as the case may be, Chief Constable] mentioned in the paragraph concerned.]

[^{F83}(6B) The reference in subsection (6) to the authorising officer who gave the authorisation or in whose absence it was given shall be construed—

- (a) in the case of an authorisation given by a person within paragraph (f) of section 93(5), as a reference to that person, and

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- (b) in the case of an authorisation given in the absence of such a person, as a reference to a member of the staff of the Serious Organised Crime Agency who is designated for the purposes of this section by the Director General of that Agency.]
- (7) This section shall apply in relation to a renewal of an authorisation as it applies in relation to an authorisation (the references in subsection (2)(a) and (b) to the authorisation being construed as references to the authorisation renewed).
- (8) In this section—
 “office premises” has the meaning given in section 1(2) of the ^{M8}Offices, Shops and Railway Premises Act 1963;
 “hotel” means premises used for the reception of guests who desire to sleep in the premises.

Textual Amendments

- F79** Words in s. 97(6) repealed (25.9.2000) by 2000 c. 23, s. 82(1)(2), Sch. 4 para. 8(7), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F80** S. 97(6A) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 82(3)**; S.I. 2000/2543, **art. 2**
- F81** Words in s. 97(6A) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 100(2)(a)**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F82** Words in s. 97(6A) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 100(2)(b)**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F83** S. 97(6B) inserted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 100(3)**; S.I. 2006/378, art. 4(1), Sch. para. 10

Marginal Citations

- M8** 1963 c. 41.

98 Matters subject to legal privilege.

- (1) Subject to subsection (5) below, in section 97 “matters subject to legal privilege” means matters to which subsection (2), (3) or (4) below applies.
- (2) This subsection applies to communications between a professional legal adviser and—
 (a) his client, or
 (b) any person representing his client,
 which are made in connection with the giving of legal advice to the client.
- (3) This subsection applies to communications—
 (a) between a professional legal adviser and his client or any person representing his client, or
 (b) between a professional legal adviser or his client or any such representative and any other person,
 which are made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- (4) This subsection applies to items enclosed with or referred to in communications of the kind mentioned in subsection (2) or (3) and made—
 (a) in connection with the giving of legal advice, or

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- (b) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- (5) For the purposes of section 97—
- (a) communications and items are not matters subject to legal privilege when they are in the possession of a person who is not entitled to possession of them, and
 - (b) communications and items held, or oral communications made, with the intention of furthering a criminal purpose are not matters subject to legal privilege.

99 Confidential personal information.

- (1) In section 97 “confidential personal information” means—
- (a) personal information which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office, and which he holds in confidence, and
 - (b) communications as a result of which personal information—
 - (i) is acquired or created as mentioned in paragraph (a), and
 - (ii) is held in confidence.
- (2) For the purposes of this section “personal information” means information concerning an individual (whether living or dead) who can be identified from it and relating—
- (a) to his physical or mental health, or
 - (b) to spiritual counselling or assistance given or to be given to him.
- (3) A person holds information in confidence for the purposes of this section if he holds it subject—
- (a) to an express or implied undertaking to hold it in confidence, or
 - (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment (including an enactment contained in an Act passed after this Act).

100 Confidential journalistic material.

- (1) In section 97 “confidential journalistic material” means—
- (a) material acquired or created for the purposes of journalism which—
 - (i) is in the possession of persons who acquired or created it for those purposes,
 - (ii) is held subject to an undertaking, restriction or obligation of the kind mentioned in section 99(3), and
 - (iii) has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism, and
 - (b) communications as a result of which information is acquired for the purposes of journalism and held as mentioned in paragraph (a)(ii).
- (2) For the purposes of subsection (1), a person who receives material, or acquires information, from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

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Code of Practice

F84 101

Textual Amendments

F84 S. 101 repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

Complaints etc.

F85 102

Textual Amendments

F85 S. 102 repealed (25.9.2000) by 2000 c. 23, ss. 70(2)(c), 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2** (and by art. 6(1) of that S.I. the repeal is expressed to be brought into force on 2.10.2000 subject to the provisions of art. 6(2)-(5))

103 Quashing of authorisations etc.

- (1) Where, at any time, a Commissioner appointed under section 91(1)(b) is satisfied that, at the time an authorisation was given or renewed, there were no reasonable grounds for believing the matters specified in section 93(2), he may quash the authorisation or, as the case may be, renewal.
- (2) Where, in the case of an authorisation or renewal to which section 97 does not apply, a Commissioner appointed under section 91(1)(b) is at any time satisfied that, at the time the authorisation was given or, as the case may be, renewed,—
 - (a) there were reasonable grounds for believing any of the matters specified in subsection (2) of section 97, and
 - (b) there were no reasonable grounds for believing the case to be one of urgency for the purposes of subsection (3) of that section,
 he may quash the authorisation or, as the case may be, renewal.
- (3) Where a Commissioner quashes an authorisation or renewal under subsection (1) or (2), he may order the destruction of any records relating to information obtained by virtue of the authorisation (or, in the case of a renewal, relating wholly or partly to information so obtained after the renewal) other than records required for pending criminal or civil proceedings.
- (4) If a Commissioner appointed under section 91(1)(b) is satisfied that, at any time after an authorisation was given or, in the case of an authorisation renewed under section 95, after it was renewed, there were no reasonable grounds for believing the matters specified in section 93(2), he may cancel the authorisation.
- (5) Where—
 - (a) an authorisation has ceased to have effect (otherwise than by virtue of subsection (1) or (2)), and

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- (b) a Commissioner appointed under section 91(1)(b) is satisfied that, at any time during the period of the authorisation, there were no reasonable grounds for believing the matters specified in section 93(2),
- he may order the destruction of any records relating, wholly or partly, to information which was obtained by virtue of the authorisation after that time (other than records required for pending criminal or civil proceedings).
- (6) Where a Commissioner exercises his powers under subsection (1), (2) or (4), he shall, if he is satisfied that there are reasonable grounds for doing so, order that the authorisation shall be effective, for such period as he shall specify, so far as it authorises the taking of action to retrieve anything left on property in accordance with the authorisation.
- (7) Where a Commissioner exercises a power conferred by this section, he shall, as soon as is reasonably practicable, make a report of his findings—
- (a) to the authorising officer who gave the authorisation or in whose absence it was given, and
- (b) to the Chief Commissioner;
- [^{F86}and subsection (6A) of section 97 shall apply for the purposes of this subsection as it applies for the purposes of subsection (6) of that section.]
- (8) Where—
- (a) a decision is made under subsection (1) or (2) and an order for the destruction of records is made under subsection (3), or
- (b) a decision to order the destruction of records is made under subsection (5),
- the order shall not become operative until the period for appealing against the decision has expired and, where an appeal is made, a decision dismissing it has been made by the Chief Commissioner.
- (9) A Commissioner may exercise any of the powers conferred by this section notwithstanding any approval given under section 97.

Textual Amendments

F86 Words in s. 103(7) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(8)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

Appeals

104 Appeals by authorising officers.

- (1) An authorising officer who gives an authorisation, or in whose absence it is given, may, within the prescribed period, appeal to the Chief Commissioner against—
- (a) any refusal to approve the authorisation or any renewal of it under section 97;
- (b) any decision to quash the authorisation, or any renewal of it, under subsection (1) of section 103;
- (c) any decision to quash the authorisation, or any renewal of it, under subsection (2) of that section;
- (d) any decision to cancel the authorisation under subsection (4) of that section;

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- (e) any decision to order the destruction of records under subsection (5) of that section;
 - (f) any refusal to make an order under subsection (6) of that section;
 - ^{F87}(g)
- (2) In subsection (1), “the prescribed period” means the period of seven days beginning with the day on which the refusal, decision or, as the case may be, determination appealed against is reported to the authorising officer.
- (3) In determining an appeal within subsection (1)(a), the Chief Commissioner shall, if he is satisfied that there are reasonable grounds for believing the matters specified in section 93(2), allow the appeal and direct the Commissioner to approve the authorisation or renewal under that section.
- (4) In determining—
- (a) an appeal within subsection (1)(b), ^{F88} . . .
 - (b)
- the Chief Commissioner shall allow the appeal unless he is satisfied that, at the time the authorisation was given or, as the case may be, renewed there were no reasonable grounds for believing the matters specified in section 93(2).
- (5) In determining—
- (a) an appeal within subsection (1)(c), ^{F88} . . .
 - (b)
- the Chief Commissioner shall allow the appeal unless he is satisfied as mentioned in section 103(2).
- (6) In determining—
- (a) an appeal within subsection (1)(d) or (e), ^{F88} . . .
 - (b)
- the Chief Commissioner shall allow the appeal unless he is satisfied that at the time to which the decision relates there were no reasonable grounds for believing the matters specified in section 93(2).
- (7) In determining an appeal within subsection (1)(f), the Chief Commissioner shall allow the appeal and order that the authorisation shall be effective to the extent mentioned in section 103(6), for such period as he shall specify, if he is satisfied that there are reasonable grounds for making such an order.
- (8) Where an appeal is allowed under this section, the Chief Commissioner shall—
- (a) in the case of an appeal within subsection (1)(b) or (c), also quash any order made by the Commissioner to destroy records relating to information obtained by virtue of the authorisation concerned, ^{F89} . . .
 - (b)

Textual Amendments

F87 S. 104(1)(g) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

F88 S. 104(4)(b)(5)(b)(6)(b) and the word “or” immediately preceding them repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

F89 S. 104(8)(b) and the word “and” immediately preceding it repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

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105 Appeals by authorising officers: supplementary.

- (1) Where the Chief Commissioner determines an appeal under section 104—
 - (a) he shall give notice of his determination—
 - (i) to the authorising officer concerned, [^{F90}and]
 - (ii) to the Commissioner against whose refusal, decision or determination the appeal was made, ^{F91} . . .
 - (iii)
 - (b) if he dismisses the appeal, he shall make a report of his findings—
 - (i) to the authorising officer concerned,
 - (ii) to the Commissioner against whose refusal, decision or determination the appeal was made, and
 - (iii) under section 107(2), to the Prime Minister [and the Scottish Ministers].
- (2) Subject to subsection (1)(b), the Chief Commissioner shall not give any reasons for a determination under section 104.
- (3) Nothing in section 104 shall prevent a designated deputy from exercising the powers conferred by subsection (1) of that section on an authorising officer within paragraph (a), (c) [^{F92}or (d)] of section 93(5).

Textual Amendments

F90 Word in s. 105(1)(a)(i) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(9)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

F91 S. 105(1)(a)(iii) and the word “and” immediately preceding it repealed (25.9.2000) by 2000 c. 23, s. 82(1)(2), **Sch. 4 para. 8(9)**, **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

F92 Words in s. 105(3) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 101**; S.I. 2006/378, art. 4(1), Sch. para. 10

Modifications etc. (not altering text)

C9 Words in s. 105(1)(b)(iii) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(3)**; S.I. 1998/3178, **art. 3**

^{F93}**106**

Textual Amendments

F93 S. 106 repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

General

107 Supplementary provisions relating to Commissioners.

- (1) The Chief Commissioner shall keep under review the performance of functions under this Part.

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

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- (2) The Chief Commissioner shall make an annual report on [^{F94}the matters with which he is concerned] to the Prime Minister [^{F95}and to the Scottish Ministers] and may at any time report to him [^{F95}or them (as the case may require)] on [^{F94}anything relating to any of those matters].
- (3) The Prime Minister shall lay before each House of Parliament a copy of each annual report made by the Chief Commissioner under subsection (2) together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (4) below.
- [^{F96}(3A) The Scottish Ministers shall lay before the Scottish Parliament a copy of each annual report made by the Chief Commissioner under subsection (2), together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (4) below.]
- (4) The Prime Minister may exclude a matter from the copy of a report as laid before each House of Parliament, if it appears to him, after consultation with the Chief Commissioner [^{F97}and the Scottish Ministers], that the publication of that matter in the report would be prejudicial to [^{F98}any of the purposes for which authorisations may be given or granted under this Part of this Act or Part II of the Regulation of Investigatory Powers Act 2000 or under any enactment contained in or made under an Act of the Scottish Parliament which makes provision equivalent to that made by Part II of that Act of 2000 or] to the discharge of—
- (a) the functions of any police authority,
 - (b) the functions of the [^{F99}Serious Organised Crime Agency], or
 - [^{F100}(ba) the functions of the Scottish Crime and Drug Enforcement Agency;]
 - (c) the duties of [^{F101}the Commissioners for Her Majesty's Revenue and Customs.]
- (5) Any person having functions under this Part, and any person taking action in relation to which an authorisation was given, shall comply with any request of a Commissioner for documents or information required by him for the purpose of enabling him to discharge his functions.
- [^{F102}(5A) It shall be the duty of—
- (a) every person by whom, or on whose application, there has been given or granted any authorisation the function of giving or granting which is subject to review by the Chief Commissioner,
 - (b) every person who has engaged in conduct with the authority of such an authorisation,
 - (c) every person who holds or has held any office, rank or position with the same public authority as a person falling within paragraph (a),
 - (d) every person who holds or has held any office, rank or position with any public authority for whose benefit (within the meaning of Part II of the Regulation of Investigatory Powers Act 2000) activities which are or may be subject to any such review have been or may be carried out, and
 - (e) every person to whom a notice under section 49 of the Regulation of Investigatory Powers Act 2000 (notices imposing a disclosure requirement in respect of information protected by a key) has been given in relation to any information obtained by conduct to which such an authorisation relates,
- to disclose or provide to the Chief Commissioner all such documents and information as he may require for the purpose of enabling him to carry out his functions.

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(5B) It shall be the duty of every Commissioner to give the tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000 all such assistance (including his opinion as to any issue falling to be determined by that tribunal) as that tribunal may require—

- (a) in connection with the investigation of any matter by that tribunal; or
- (b) otherwise for the purposes of that tribunal’s consideration or determination of any matter.

(5C) In this section “public authority” means any public authority within the meaning of section 6 of the ^{M9}Human Rights Act 1998 (acts of public authorities) other than a court or tribunal.]

^{F103}(6)

Textual Amendments

- F94** Words in s. 107(2) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(10)(a)(i)(ii)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F95** Words in s. 107(2) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(5)(a)(i)(ii)**; S.I. 1998/3178, **art. 3**
- F96** S. 107(3A) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(5)(b)**; S.I. 1998/3178, **art. 3**
- F97** Words in s. 107(4) inserted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 6 Pt. II para. 2(5)(c)**; S.I. 1998/3178, **art. 3**
- F98** Words in s. 107(4) substituted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(10)(b)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F99** Words in s. 107(4)(b) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 102**; S.I. 2006/378, art. 4(1), Sch. para. 10
- F100** S. 107(4)(ba) inserted (S.) (1.4.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **sch. 6 para. 6(5)**; S.S.I. 2007/84, art. 3(3)
- F101** Words in s. 107(4)(c) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 12 para. 3**; S.I. 2008/219, art. 2(b)
- F102** S. 107(5A)-(5C) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(10)(c)(11)** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F103** S. 107(6) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

Modifications etc. (not altering text)

- C10** S. 107(3)(4) applied (25.9.2000) by 2000 c. 23, s. 39(3) (with s. 82(3)); S.I. 2000/2543, **art. 2**

Marginal Citations

- M9** 1998 c. 42.

108 Interpretation of Part III.

(1) In this Part—

[^{F104}“Assistant Commissioner of Police of the Metropolis” includes the Deputy Commissioner of Police of the Metropolis;]

“authorisation” means an authorisation under section 93;

“authorising officer” has the meaning given by section 93(5);

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“criminal proceedings” includes [^{F105}proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006;]

^{F106} ...

“designated deputy” has the meaning given in section 94(4);

“United Kingdom waters” has the meaning given in section 30(5) of the ^{M10}Police Act 1996; and

“wireless telegraphy” has the same meaning as in [^{F107}the Wireless Telegraphy Act 2006] and, in relation to wireless telegraphy, “interfere” has the same meaning as in that Act.

- (2) Where, under this Part, notice of any matter is required to be given in writing, the notice may be transmitted by electronic means.
- (3) For the purposes of this Part, an authorisation (or renewal) given—
- (a) by the designated deputy of an authorising officer, or
 - (b) by a person on whom an authorising officer’s powers are conferred by section 94,

shall be treated as an authorisation (or renewal) given in the absence of the authorising officer concerned; and references to the authorising officer in whose absence an authorisation (or renewal) was given shall be construed accordingly.

Textual Amendments

F104 In s. 108(1) definition of "Assistant Commissioner of Police of the Metropolis" inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(12)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

F105 Words in s. 108(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, s. 383(2), **Sch. 16 para. 148**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

F106 Words in s. 108(1) repealed (15.2.2008) by **Serious Crime Act 2007 (c. 27)**, s. 94(1), **Sch. 12 para. 4**, **Sch. 14**; S.I. 2008/219, art. 2(b)(d)(i)

F107 Words in s. 108(1) substituted (8.2.2007) by **Wireless Telegraphy Act 2006 (c. 36)**, s. 126(2), **Sch. 7 para. 19**

Modifications etc. (not altering text)

C11 S. 108(1) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059)**, art. 1(3), **Sch. 1 para. 41**

Marginal Citations

M10 1996 c. 16.

PART IV

POLICE INFORMATION TECHNOLOGY ORGANISATION

^{F108}**109 Police Information Technology Organisation.**

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Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.
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Textual Amendments

F108 Ss. 109-111 repealed (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 15 Pt. 1(A)**; S.I. 2007/709, art. 3(q) (with art. 6)

F108 110 Relationship between the Organisation and the Secretary of State.

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Textual Amendments

F108 Ss. 109-111 repealed (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 15 Pt. 1(A)**; S.I. 2007/709, art. 3(q) (with art. 6)

F108 111 Interpretation of Part IV.

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Textual Amendments

F108 Ss. 109-111 repealed (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 15 Pt. 1(A)**; S.I. 2007/709, art. 3(q) (with art. 6)

PART V

CERTIFICATES OF CRIMINAL RECORDS, &c.

Modifications etc. (not altering text)

- C12** Pt. 5 power to apply (with modifications) conferred (E.W.) (7.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 163(4)**, 178(2)
- C13** Pt. 5 explained (7.7.2008 for specified purposes, 3.3.2011 for specified purposes, 10.3.2015 in so far as not already in force) by Data Protection Act 1998 (c. 29), **s. 56(4)** (as amended (19.5.2008) by 2006 c. 47, ss. 63, 65, **Sch. 9 para. 15(3)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2008/1320, **art. 3**; S.I. 2008/1592, **art. 2**; S.I. 2011/601, **art. 2**; S.I. 2015/312, **art. 2**)
- C14** Pt. 5 modified (temp.) (S.) (20.1.2009) by The Protection of Vulnerable Groups (Scotland) Act 2007 (Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006) Order 2009 (S.S.I. 2009/4), arts. 1(2), **5** (with art. 3)
- C15** Pt. 5 modified (temp.) (S.) (20.1.2009) by The Protection of Vulnerable Groups (Scotland) Act 2007 (Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006) Order 2009 (S.S.I. 2009/4), arts. 1(2), **4** (with art. 3)
- C16** Pt. 5 extended in part (Guernsey) (with modifications) (10.12.2009) by The Police Act 1997 (Criminal Records) (Guernsey) Order 2009 (S.I. 2009/3215), arts. 1(2), 3, Sch. 1, **Sch. 3** (with arts. 1(3), 6-8)
- C17** Pt. V extended in part (Jersey) (with modifications) (18.3.2010) by The Police Act 1997 (Criminal Records) (Jersey) Order 2010 (S.I. 2010/765), arts. 1(2), 3, Schs. 1, **3** (with arts. 1(3), 6-8)
- C18** Pt. V extended in part (Isle of Man) (with modifications) (18.3.2010) by The Police Act 1997 (Criminal Records) (Isle of Man) Order 2010 (S.I. 2010/764), arts. 1(2), 3, Schs. 1, **3** (with arts. 1(3), 6-8)

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112 Criminal conviction certificates.

- (1) The Secretary of State shall issue a criminal conviction certificate to any individual who—
- (a) makes an application ^{F109} ..., and
 - (b) [^{F110} pays in the prescribed manner any prescribed fee]
- (2) A criminal conviction certificate is a certificate which—
- (a) gives the prescribed details of every conviction of the applicant which is recorded in central records, or
 - (b) states that there is no such conviction.
- (3) In this section—
- “central records” means such records of convictions [^{F111}and conditional cautions] held for the use of police forces generally as may be prescribed;
- [^{F112}“conditional caution” means a caution given under section 22 of the Criminal Justice Act 2003 (c. 44) or section 66A of the Crime and Disorder Act 1998, other than one that is spent for the purposes of Schedule 2 to the Rehabilitation of Offenders Act 1974.]
- “conviction” means a conviction within the meaning of the ^{M11}Rehabilitation of Offenders Act 1974, other than a spent conviction.
- (4) Where an applicant has received a criminal conviction certificate, the Secretary of State may refuse to issue another certificate to that applicant during such period as may be prescribed.

Textual Amendments

F109 Words in s. 112(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), ss. 79\(1\), 101\(2\)](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\), ss. 97\(2\), 116\(1\), Sch. 8 Pt. 8](#); S.I. 2010/125, art. 2(n)(u)

F110 S. 112(1)(b) substituted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\), arts. 1\(1\), 2\(1\)\(b\)](#)

F111 Words in s. 112 inserted (E.W.) (19.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 50\(2\)\(a\), 153\(7\)](#); S.I. 2008/3260, art. 2(1)(b)

F112 Words in s. 112 inserted (E.W.) (19.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 50\(2\)\(b\), 153\(7\)](#); S.I. 2008/3260, art. 2(1)(b)

Commencement Information

I4 S. 112 not in force at Royal Assent, see s. 135(1)

I5 S. 112 in force at 1.4.2008 for N.I. by S.I. 2008/692, art. 2(a)

Marginal Citations

M11 1974 c. 53.

^{F113}113 Criminal record certificates.

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Textual Amendments

F113 S. 113 repealed (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 163(1), 178(4)(d)(8), [Sch. 17 Pt. 2](#); S.S.I. 2006/166, art. 2(1)(c)(d); S.I. 2006/378, art. 7(a)(f)

[^{F114}113A Criminal record certificates

- (1) The Secretary of State must issue a criminal record certificate to any individual who—
 - (a) makes an application ^{F115}..., and
 - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
 - (a) be countersigned by a registered person, and
 - (b) be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.

[But an application for a criminal record certificate need not be countersigned by a ^{F116}(2A) registered person if—

- (a) the application is transmitted to the Secretary of State electronically by a registered person who satisfies conditions determined by the Secretary of State, and
 - (b) it is transmitted in accordance with requirements determined by the Secretary of State.]
- (3) A criminal record certificate is a certificate which—
 - (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records, or
 - (b) states that there is no such matter.
- (4) The Secretary of State must send a copy of a criminal record certificate to [^{F117}the registered person who countersigned][^{F117}whoever acted as the registered person in relation to] the application.
- (5) The Secretary of State may treat an application under this section as an application under section 113B if—
 - (a) in his opinion the certificate is required for a purpose prescribed under subsection (2) of that section,
 - (b) the registered person provides him with the statement required by that subsection, and
 - (c) the applicant consents and pays to the Secretary of State the amount (if any) by which the fee payable in relation to an application under that section exceeds the fee paid in relation to the application under this section.
- (6) In this section—

“central records” means such records of convictions and cautions held for the use of police forces generally as may be prescribed;

“exempted question” means a question [^{F118}which—

 - (a) so far as it applies to convictions, is a question] in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (effect

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of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act; ^{F119}and—

- (b) so far as it applies to cautions, is a question to which paragraph 3(3) or (4) of Schedule 2 to that Act has been excluded by an order of the Secretary of State under paragraph 4 of that Schedule;]

“relevant matter” means—

- (a) a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction, and
(b) a caution ^{F120}, including a caution that is spent for the purposes of Schedule 2 to that Act].

^{F121}[The Secretary of State may by order amend the definitions of “central records” and (7) “relevant matter” in subsection (6).

- (8) The power to make an order under subsection (7) is exercisable by statutory instrument, but no such order may be made unless a draft of the instrument containing the order is laid before and approved by resolution of each House of Parliament.]

^{F122}[For the purposes of this Part a person acts as the registered person in relation to an (9) application for a criminal record certificate if the person—

- (a) countersigns the application, or
(b) transmits the application to the Secretary of State under subsection (2A).]

^{F123}[This section is subject to regulation 4 of the Safeguarding Vulnerable Groups Act 2006 (10) (Controlled Activity and Miscellaneous Provisions) Regulations 2010.]

Textual Amendments

- F114** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by *Serious Organised Crime and Police Act 2005* (c. 15), **ss. 163(2)**, 178(4)(d)(8); *S.S.I. 2006/166*, art. 2(1)(c); *S.I. 2006/378*, art. 7(a); *S.I. 2006/2182*, art. 2; *S.I. 2007/3064*, art. 2; *S.I. 2008/306*, art. 2; *S.I. 2008/697*, art. 2(a); *S.I. 2015/188*, art. 2
- F115** Words in s. 113A(1)(a) repealed (S.) (11.1.2008) by *Protection of Vulnerable Groups (Scotland) Act 2007* (asp 14), **ss. 79(1)**, 101(2) (with ss. 90, 99); *S.S.I. 2007/564*, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by *Policing and Crime Act 2009* (c. 26), ss. 97(2), 116(1), **Sch. 8 Pt. 8**; *S.I. 2010/125*, art. 2(n)(u)
- F116** S. 113A(2A) inserted (E.W.) (2.3.2009) by *The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009* (S.I. 2009/203), arts. 1(1), **3(2)**
- F117** Words in s. 113A(4) substituted (E.W.) (2.3.2009) by *The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009* (S.I. 2009/203), arts. 1(1), **3(3)**
- F118** Words in s. 113A(6) inserted (E.W.) (19.12.2008) by *Criminal Justice and Immigration Act 2008* (c. 4), **ss. 50(3)(a)**, 153(7); *S.I. 2008/3260*, art. 2(1)(b)
- F119** Words in s. 113A(6) inserted (E.W.) (19.12.2008) by *Criminal Justice and Immigration Act 2008* (c. 4), **ss. 50(3)(b)**, 153(7); *S.I. 2008/3260*, art. 2(1)(b)
- F120** Words in s. 113A(6) inserted (E.W.) (19.12.2008) by *Criminal Justice and Immigration Act 2008* (c. 4), **ss. 50(3)(c)**, 153(7); *S.I. 2008/3260*, art. 2(1)(b)
- F121** S. 113A(7)(8) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by *Safeguarding Vulnerable Groups Act 2006* (c. 47), s. 65, **Sch. 9 para. 14(2)** (with ss. 51, 57(3), 60(4), 64(5)); *S.I. 2009/2610*, art. 2(a) (with arts. 4-23); *S.I. 2009/2611*, art. 2, Sch
- F122** S. 113A(9) inserted (E.W.) (2.3.2009) by *The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009* (S.I. 2009/203), arts. 1(1), **3(4)**

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F123 S. 113A(10) inserted (E.W.) (31.3.2010) by [The Safeguarding Vulnerable Groups Act 2006 \(Controlled Activity and Miscellaneous Provisions\) Regulations 2010 \(S.I. 2010/1146\)](#), regs. 1, **4(2)**

Modifications etc. (not altering text)

C19 S. 113A(1) excluded (E.W.) (31.3.2010) by [The Safeguarding Vulnerable Groups Act 2006 \(Controlled Activity and Miscellaneous Provisions\) Regulations 2010 \(S.I. 2010/1146\)](#), regs. 1, **4(1)**

C20 S. 113A(1)(a) modified (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **21(1)**

Commencement Information

I6 S. 113A in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), art. **2(b)**

113B Enhanced criminal record certificates

- (1) The Secretary of State must issue an enhanced criminal record certificate to any individual who—
- (a) makes an application ^{F124}..., and
 - (b) pays in the prescribed manner any prescribed fee.

- (2) The application must—
- (a) be countersigned by a registered person, and
 - (b) be accompanied by a statement by the registered person that the certificate is required [^{F125}for the purposes of an exempted question asked] for a prescribed purpose.

[But an application for an enhanced criminal record certificate need not be ^{F126}(2A) countersigned by a registered person if—

- (a) the application is transmitted to the Secretary of State electronically by a registered person who satisfies conditions determined by the Secretary of State, and
 - (b) it is transmitted in accordance with requirements determined by the Secretary of State.]
- (3) An enhanced criminal record certificate is a certificate which—
- (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records and any information provided in accordance with subsection (4), or
 - (b) states that there is no such matter or information.
- (4) Before issuing an enhanced criminal record certificate the Secretary of State must request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—
- (a) might be relevant for the purpose described in the statement under subsection (2), and
 - (b) ought to be included in the certificate.
- (5) The Secretary of State must also request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—
- (a) might be relevant for the purpose described in the statement under subsection (2),
 - (b) ought not to be included in the certificate, in the interests of the prevention or detection of crime, and

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(c) can, without harming those interests, be disclosed to the registered person.

^{F127}[The Scottish Ministers must pay to such body as may be prescribed such fee as they think appropriate for information received from the chief officer of a body mentioned in subsection (10)(j) to (m) as a result of a request under subsection (4) or (5).]

(6) The Secretary of State must send to ^{F128}the registered person who countersigned^{F128} whoever acted as the registered person in relation to] the application—

- (a) a copy of the enhanced criminal record certificate, and
- (b) any information provided in accordance with subsection (5).

(7) The Secretary of State may treat an application under this section as an application under section 113A if in his opinion the certificate is not required for a purpose prescribed under subsection (2).

(8) If by virtue of subsection (7) the Secretary of State treats an application under this section as an application under section 113A, he must refund to the applicant the amount (if any) by which the fee paid in relation to the application under this section exceeds the fee payable in relation to an application under section 113A.

(9) In this section—

“central records”, “exempted question”, and “relevant matter” have the same meaning as in section 113A;

“relevant police force”, in relation to an application under this section, means a police force which is a relevant police force in relation to that application under regulations made by the Secretary of State.

(10) For the purposes of this section references to a police force include any of the following—

- ^{F129}(a) the Royal Navy Police;
- (c) the Royal Military Police;
- (d) the Royal Air Force Police;
- (e) the Ministry of Defence Police;
- (f) the National Criminal Intelligence Service;
- (g) the National Crime Squad;
- (h) the British Transport Police;
- (i) the Civil Nuclear Constabulary;
- (j) the States of Jersey Police Force;
- (k) the salaried police force of the Island of Guernsey;
- (l) the Isle of Man Constabulary;
- (m) a body with functions in any country or territory outside the British Islands which correspond to those of a police force in any part of the United Kingdom,

and any reference to the chief officer of a police force includes the person responsible for the direction of a body mentioned in this subsection.

(11) For the purposes of this section each of the following must be treated as if it were a police force—

- (a) the Commissioners for Her Majesty's Revenue and Customs (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to any one of the Commissioners);

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- (b) the Serious Organised Crime Agency (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Director General of the Agency);
- (c) such other department or body as is prescribed (and regulations may prescribe in relation to the department or body the person to whom a reference to the chief officer is to be taken to be).

[For the purposes of this Part a person acts as the registered person in relation to an ^{F130}(12) application for an enhanced criminal record certificate if the person—

- (a) countersigns the application, or
- (b) transmits the application to the Secretary of State under subsection (2A).]

[This section is subject to regulations 5, 6 and 7 of the Safeguarding Vulnerable Groups ^{F131}(13) Act 2006 (Controlled Activity and Miscellaneous Provisions) Regulations 2010.]

Textual Amendments

F114 Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)

F124 Words in s. 113B(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 79\(1\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2007/564](#), [art. 2](#), [sch.](#); and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 97\(2\)](#), [116\(1\)](#), [Sch. 8 Pt. 8](#); [S.I. 2010/125](#), [art. 2\(n\)\(u\)](#)

F125 Words in s. 113B(2)(b) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), [s. 65](#), [Sch. 9 para. 14\(3\)](#) (with [ss. 51](#), [57\(3\)](#), [60\(4\)](#), [64\(5\)](#)); [S.I. 2009/2610](#), [art. 2\(a\)](#) (with [arts. 4-23](#)); [S.I. 2009/2611](#), [art. 2](#), [Sch.](#)

F126 S. 113B(2A) inserted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), [arts. 1\(1\)](#), [4\(2\)](#)

F127 S. 113B(5A) inserted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 80](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2007/564](#), [art. 2](#), [sch.](#)

F128 Words in s. 113B(6) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), [arts. 1\(1\)](#), [4\(3\)](#)

F129 S. 113B(10)(a) substituted for s. 113(10)(a)(b) (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), [s. 383\(2\)](#), [Sch. 16 para. 149](#); [S.I. 2007/1442](#), [art. 2\(1\)](#)

F130 S. 113B(12) inserted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), [arts. 1\(1\)](#), [4\(4\)](#)

F131 S. 113B(13) inserted (E.W.) (31.3.2010) by [The Safeguarding Vulnerable Groups Act 2006 \(Controlled Activity and Miscellaneous Provisions\) Regulations 2010 \(S.I. 2010/1146\)](#), [regs. 1](#), [8](#)

Modifications etc. (not altering text)

C21 S. 113B modified (E.W.) (31.3.2010) by [The Safeguarding Vulnerable Groups Act 2006 \(Controlled Activity and Miscellaneous Provisions\) Regulations 2010 \(S.I. 2010/1146\)](#), [regs. 1](#), [5-7](#)

C22 S. 113B(1)(a) modified (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), [arts. 1\(1\)](#), [21\(1\)](#)

Commencement Information

I7 S. 113B in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), [art. 2\(c\)](#)

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Suitability information relating to children

F132 113BA

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.
- (2) Suitability information relating to children is—
 - (a) whether the applicant is barred from regulated activity relating to children;
 - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which he became barred;
 - (c) whether the applicant is subject to monitoring in relation to regulated activity relating to children;
 - (d) whether the [^{F133}Independent Safeguarding Authority] is considering whether to include the applicant in the children's barred list in pursuance of paragraph 3 or 5 of Schedule 3 to the 2006 Act.
 - [^{F134}(e) whether the applicant is subject to a direction under section 167A of the Education Act 2002 (prohibition on participation in management of independent school).]
- (3) Expressions used in this section and in the 2006 Act have the same meaning in this section as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.
- (4) “The 2006 Act” means the Safeguarding Vulnerable Groups Act 2006.

Textual Amendments

- F114** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F132** Ss. 113BA-113BC inserted (E.W.N.I.) (22.6.2009 for specified purposes, 12.10.2009 for E.W. in so far as not already in force, 12.10.2009 for N.I. in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 9 para. 14(4)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/1503, art. 2(a); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.; S.I. 2009/1503, art. 2(a); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.
- F133** Words in s. 113BA substituted (12.11.2009) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 81(2)(3)(h)**, 116(5)(a)
- F134** S. 113BA(2)(e) inserted (12.10.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 170(2)**, 188(3); S.I. 2009/2545, art. 3(1)(b)

Modifications etc. (not altering text)

- C23** S. 113BA modified (temp.) (N.I.) (with application in accordance with arts. 2, 11 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 12**
- C24** S. 113BA modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 6**

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113BB Suitability information relating to vulnerable adults

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to vulnerable adults.
- (2) Suitability information relating to vulnerable adults is —
 - (a) whether the applicant is barred from regulated activity relating to vulnerable adults;
 - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which he became barred;
 - (c) whether the applicant is subject to monitoring in relation to regulated activity relating to vulnerable adults;
 - (d) whether the [^{F135}Independent Safeguarding Authority] is considering whether to include the applicant in the adults' barred list in pursuance of paragraph 9 or 11 of Schedule 3 to the 2006 Act.
- (3) Expressions used in this section and in the 2006 Act have the same meaning in this section as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.
- (4) “The 2006 Act” means the Safeguarding Vulnerable Groups Act 2006.

Textual Amendments

F114 Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 163(2)**, 178(4)(d)(8); [S.S.I. 2006/166](#), art. 2(1)(c); [S.I. 2006/378](#), art. 7(a); [S.I. 2006/2182](#), art. 2; [S.I. 2007/3064](#), art. 2; [S.I. 2008/306](#), art. 2; [S.I. 2008/697](#), art. 2(a); [S.I. 2015/188](#), art. 2

F132 Ss. 113BA-113BC inserted (E.W.N.I.) (22.6.2009 for specified purposes, 12.10.2009 for E.W. in so far as not already in force, 12.10.2009 for N.I. in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 9 para. 14(4)** (with ss. 51, 57(3), 60(4), 64(5)); [S.I. 2009/1503](#), art. 2(a); [S.I. 2009/2610](#), art. 2(a) (with arts. 4-23); [S.I. 2009/2611](#), art. 2, Sch.; [S.I. 2009/1503](#), art. 2(a); [S.I. 2009/2610](#), art. 2(a) (with arts. 4-23); [S.I. 2009/2611](#), art. 2, Sch.

F135 Words in s. 113BB substituted (12.11.2009) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. 81(2)(3)(h), 116(5)(a)

Modifications etc. (not altering text)

C25 S. 113BB modified (temp.) (N.I.) (with application in accordance with arts. 2, 11 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 13**

C26 S. 113BB modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 7**

113BC Suitability information: power to amend

- (1) The Secretary of State may by order made by statutory instrument—
 - (a) amend section 113BA for the purpose of altering the meaning of suitability information relating to children;

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- (b) amend section 113BB for the purpose of altering the meaning of suitability information relating to vulnerable adults.
- (2) Such an order is subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F114** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F132** Ss. 113BA-113BC inserted (E.W.N.I.) (22.6.2009 for specified purposes, 12.10.2009 for E.W. in so far as not already in force, 12.10.2009 for N.I. in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), [s. 65](#), [Sch. 9 para. 14\(4\)](#) (with [ss. 51](#), [57\(3\)](#), [60\(4\)](#), [64\(5\)](#)); [S.I. 2009/1503](#), [art. 2\(a\)](#); [S.I. 2009/2610](#), [art. 2\(a\)](#) (with [arts. 4-23](#)); [S.I. 2009/2611](#), [art. 2](#), [Sch.](#); [S.I. 2009/1503](#), [art. 2\(a\)](#); [S.I. 2009/2610](#), [art. 2\(a\)](#) (with [arts. 4-23](#)); [S.I. 2009/2611](#), [art. 2](#), [Sch.](#)

^{F136}113CA Suitability information relating to children

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.
- (2) Suitability information relating to children is—
- (a) whether the applicant is barred from regulated work with children;
 - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
 - (c) whether the Scottish Ministers are considering whether to list the individual in the children's list;
 - (d) whether the [^{F137}Independent Safeguarding Authority] is considering whether to include the applicant in the children's barred list in pursuance of paragraph 3 or 5 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006.

Textual Amendments

- F114** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F136** Ss. 113CA-113CC inserted (S.) (18.4.2010 for specified purposes, 28.2.2011 in so far as not already in force) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [s. 101\(2\)](#), [sch. 4 para. 29](#) (with [ss. 90](#), [99](#)); [S.S.I. 2010/133](#), [art. 2](#), [sch.](#); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))
- F137** Words in s. 113CA substituted (12.11.2009) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 81\(2\)\(3\)\(h\)](#), [116\(5\)\(a\)](#)

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113CB Suitability information relating to protected adults

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to protected adults.
- (2) Suitability information relating to protected adults is—
 - (a) whether the applicant is barred from regulated work with adults;
 - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
 - (c) whether the Scottish Ministers are considering whether to list the individual in the adults' list;
 - (d) whether the [^{F138}Independent Safeguarding Authority] is considering whether to include the applicant in the adults' barred list in pursuance of paragraph 9 or 11 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006.

Textual Amendments

- F114** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F136** Ss. 113CA-113CC inserted (S.) (18.4.2010 for specified purposes, 28.2.2011 in so far as not already in force) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [s. 101\(2\)](#), [sch. 4 para. 29](#) (with [ss. 90, 99](#)); [S.S.I. 2010/133](#), [art. 2](#), [sch.](#); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))
- F138** Words in s. 113CB substituted (12.11.2009) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 81\(2\)\(3\)\(h\)](#), [116\(5\)\(a\)](#)

113CC Suitability information: supplementary

- (1) The Scottish Ministers may by order made by statutory instrument—
 - (a) amend section 113CA for the purpose of altering the meaning of suitability information relating to children;
 - (b) amend section 113CB for the purpose of altering the meaning of suitability information relating to protected adults.
- (2) Such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (3) Expressions used in sections 113CA and 113CB and in the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) have the same meaning in those sections as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.]

Textual Amendments

- F114** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I.](#)

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2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2

F136 Ss. 113CA-113CC inserted (S.) (18.4.2010 for specified purposes, 28.2.2011 in so far as not already in force) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 29** (with ss. 90, 99); S.S.I. 2010/133, art. 2, sch.; S.S.I. 2011/157, art. 2(a) (with art. 3)

113C Criminal record certificates: suitability relating to children

- [^{F139}][^{F140}](1) If an application under section 113A or 113B is accompanied by a children's suitability statement the criminal record certificate or enhanced criminal record certificate (as the case may be) must also state—
- (a) whether the applicant is included in a specified children's list;
 - (b) if he is included in such a list, such details of his inclusion as may be prescribed;
 - (c) whether he is subject to a specified children's direction;
 - (d) if he is subject to such a direction, the grounds on which it was given and such details as may be prescribed of the circumstances in which it was given.
- (2) A children's suitability statement is a statement by the registered person that the certificate is required for the purpose of considering—
- (a) the applicant's suitability to be employed, supplied to work, found work or given work in a position (whether paid or unpaid) within subsection (5),
 - (b) the applicant's suitability to be a foster parent or to adopt a child,
 - (c) the applicant's suitability to be a child's special guardian for the purposes of sections 14A and 14C of the Children Act 1989,
 - (d) the applicant's suitability to have a child placed with him by virtue of section 70 of the Children (Scotland) Act 1995 or by virtue of section 5(2), (3) and (4) of the Social Work (Scotland) Act 1968, or
 - (e) the suitability of a person living in the same household as the applicant to be a person mentioned in paragraph (b) or (c) or to have a child placed with him as mentioned in paragraph (d).
- (3) Each of the following is a specified children's list—
- (a) the list kept under section 1 of the Protection of Children Act 1999;
 - (b) the list kept under section 1(1) of the Protection of Children (Scotland) Act 2003;
 - (c) the list kept under Article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;
 - (d) any list kept for the purposes of regulations under Article 70(2)(e) or 88A(2)(b) of the Education and Libraries (Northern Ireland) Order 1986;
 - (e) any such other list as the Secretary of State specifies by order if he thinks that the list corresponds to a list specified in paragraphs (a) to (c) and is kept in pursuance of [^{F141}the law of] a country or territory outside the United Kingdom.
- (4) Each of the following is a specified children's direction—
- (a) a direction under section 142 of the Education Act 2002;
 - (b) anything which the Secretary of State specifies by order which he thinks corresponds to such a direction and which is done for the purposes of the

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law of Scotland or of Northern Ireland or of a country or territory outside the United Kingdom.

- (5) A position falls within this subsection if it is any of the following—
- (a) a child care position within the meaning of the Protection of Children Act 1999;
 - (b) a child care position within the meaning of the Protection of Children (Scotland) Act 2003;
 - (c) a child care position within the meaning of Chapter 1 of Part 2 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;
 - (d) a position, employment or further employment in which may be prohibited or restricted by regulations under Article 70(2)(e) or 88A(2)(b) of the Education and Libraries (Northern Ireland) Order 1986;
 - (e) a position which involves work to which section 142 of the Education Act 2002 applies;
 - (f) a position of such other description as may be prescribed.
- (6) An order under subsection (4)(b) may make such modifications of subsection (1)(d) as the Secretary of State thinks necessary or expedient in consequence of the order.]]

Textual Amendments

- F114** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F139** Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\)](#), [art. 1\(3\)](#), [Sch. 8](#) (with [arts. 2\(4\)](#), [53](#), [57\(3\)](#), [61\(4\)](#)); [S.R. 2009/304](#), [art. 3\(a\)](#)
- F140** Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), [s. 65](#), [Sch. 10](#) (with [ss. 51](#), [57\(3\)](#), [60\(4\)](#), [64\(5\)](#)); [S.I. 2009/2610](#), [art. 2\(b\)](#) (with [arts. 4-23](#))
- F141** Words in s. 113C(3)(e) inserted (1.1.2006) by [The Serious Organised Crime and Police Act 2005 \(Amendment\) Order 2005 \(S.I. 2005/3496\)](#), [arts. 1\(1\)](#), [6\(1\)](#)

Modifications etc. (not altering text)

- C27** S. 113C(3) modified (temp.) (S.) (12.10.2009) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006\) \(No. 2\) Order 2009 \(S.S.I. 2009/337\)](#), [arts. 1\(2\)](#), [3\(1\)](#) (with [art. 2](#))
- C28** S. 113C(3) modified (temp.) (S.) (20.11.2009) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007\) Order 2009 \(S.S.I. 2009/375\)](#), [arts. 1\(2\)](#), [3\(1\)](#) (with [art. 2](#))

Commencement Information

- I8** S. 113C in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), [art. 2\(d\)](#)

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

113D Criminal record certificates: suitability relating to adults

- [^{F139}[^{F140}(1) If an application under section 113A or 113B is accompanied by an adults' suitability statement the criminal record certificate or enhanced criminal record certificate (as the case may be) must also state—
- (a) whether the applicant is included in a specified adults' list;
 - (b) if he is included in such a list, such details of his inclusion as may be prescribed.
- (2) An adults' suitability statement is a statement by the registered person that the certificate is required for the purpose of considering the applicant's suitability to be employed, supplied to work, found work or given work in a position (whether paid or unpaid) falling within subsection (4).
- (3) Each of the following is a specified adults' list—
- (a) the list kept under section 81 of the Care Standards Act 2000;
 - (b) the list kept under Article 35 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;
 - (c) any such other list as the Secretary of State specifies by order if he thinks that the list corresponds to a list specified in paragraph (a) or (b) and is kept in pursuance of the law of Scotland or of a country or territory outside the United Kingdom.
- (4) A position falls within this subsection if it is any of the following—
- (a) a care position within the meaning of Part 7 of the Care Standards Act 2000;
 - (b) a care position within the meaning of Part 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;
 - (c) a position concerned with providing a care service (as defined by section 2(1) of the Regulation of Care (Scotland) Act 2001);
 - (d) a position of such other description as may be prescribed.]]

Textual Amendments

F114 Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\), 178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), art. 2(1)(c); [S.I. 2006/378](#), art. 7(a); [S.I. 2006/2182](#), art. 2; [S.I. 2007/3064](#), art. 2; [S.I. 2008/306](#), art. 2; [S.I. 2008/697](#), art. 2(a); [S.I. 2015/188](#), art. 2

F139 Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\)](#), art. 1(3), [Sch. 8](#) (with arts. 2(4), 53, 57(3), 61(4)); [S.R. 2009/304](#), art. 3(a)

F140 Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, [Sch. 10](#) (with ss. 51, 57(3), 60(4), 64(5)); [S.I. 2009/2610](#), art. 2(b) (with arts. 4-23)

Modifications etc. (not altering text)

C29 S. 113D(3) modified (S.) (12.10.2009) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006\) \(No. 2\) Order 2009 \(S.S.I. 2009/337\)](#), arts. 1(2), [3\(2\)](#) (with art. 2)

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

C30 S. 113D(3) modified (temp.) (S.) (20.11.2009) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007\) Order 2009 \(S.S.I. 2009/375\)](#), arts. 1(2), **3(2)** (with art. 2))

Commencement Information

I9 S. 113D in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), art. 2(e)

113E Criminal record certificates: specified children's and adults' lists: urgent cases

- [^{F139}[^{F140}(1) Subsection (2) applies to an application under section 113A or 113B if—
- (a) it is accompanied by a children's suitability statement,
 - (b) the registered person requests an urgent preliminary response, and
 - (c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.
- (2) The Secretary of State must notify the registered person—
- (a) if the applicant is not included in a specified children's list, of that fact;
 - (b) if the applicant is included in such a list, of the details prescribed for the purposes of section 113C(1)(b) above;
 - (c) if the applicant is not subject to a specified children's direction, of that fact;
 - (d) if the applicant is subject to such a direction, of the grounds on which the direction was given and the details prescribed for the purposes of section 113C(1)(d) above.
- (3) Subsection (4) applies to an application under section 113A or 113B if—
- (a) it is accompanied by an adults' suitability statement,
 - (b) the registered person requests an urgent preliminary response, and
 - (c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.
- (4) The Secretary of State must notify the registered person either—
- (a) that the applicant is not included in a specified adults' list, or
 - (b) that a criminal record certificate or enhanced criminal record certificate will be issued in due course.
- (5) In this section—
- “criminal record certificate” has the same meaning as in section 113A;
 - “enhanced criminal record certificate” has the same meaning as in section 113B;
 - “children's suitability statement” “, specified children's direction” and “specified children's list” have the same meaning as in section 113C;
 - “adults' suitability statement” and “specified adults' list” have the same meaning as in section 113D.]]

Textual Amendments

F114 Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. **163(2)**, 178(4)(d)(8); S.S.I.

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2

F139 Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351), art. 1(3), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/304, art. 3(a)

F140 Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(b) (with arts. 4-23)

Modifications etc. (not altering text)

C31 S. 113E modified (temp.) (12.10.2009) by The Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009 (S.I. 2009/2610), arts. 1(1), **14**

113F Criminal record certificates: supplementary

[^{F139}[^{F140}(1) References in sections 113C(2) and 113D(2) to considering the applicant's suitability to be employed, supplied to work, found work or given work in a position falling within section 113C(5) or 113D(4) include references to considering—

[^{F142}(za) for the purposes of Part 3 of the Childcare Act 2006 (regulation of provision of childcare in England) and regulations made under it, the applicant's suitability to look after or be in regular contact with children;]

(a) for the purposes of Part 10A of the Children Act 1989 (child minding and day care in ^{F143}... Wales), the applicant's suitability to look after or be in regular contact with children under the age of eight;

(b) for the purposes of that Part of that Act, in the case of an applicant for or holder of a certificate under section 79W of that Act, or a person prescribed under subsection (4) of that section, his suitability to look after children within the meaning of that section;

(c) the applicant's suitability to be registered for child minding or providing day care under ^{F144}... Article 118 of the Children (Northern Ireland) Order 1995 (child minding and day care);

(d) for the purposes of section 3 of the Teaching and Higher Education Act 1998 (registration of teachers with the General Teaching Council for England or the General Teaching Council for Wales) or of section 6 of the Teaching Council (Scotland) Act 1965 (registration of teachers with the General Teaching Council for Scotland), the applicant's suitability to be a teacher;

(e) the applicant's suitability to be registered under Part 2 of the Care Standards Act 2000 (establishments and agencies);

(f) the applicant's suitability to be registered under Part 4 of that Act (social care workers);

(g) the applicant's suitability to be registered under Part 1 of the Regulation of Care (Scotland) Act 2001 (applications by persons seeking to provide a care service);

(h) the applicant's suitability to be registered under Part 3 of that Act (social workers and other social service workers);

(i) the applicant's application to have a care service, consisting of the provision of child minding or the day care of children, registered under Part 1 of that Act (care services);

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

- (j) the applicant's suitability to be registered under Part 1 of the Health and Personal Social Services Act (Northern Ireland) 2001 (social care workers);
 - (k) the applicant's suitability to be registered under Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (regulation of establishments and agencies).
- (2) The power to make an order under section 113C or 113D is exercisable by statutory instrument, but no such order may be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (3) If the power mentioned in subsection (2) is exercised by the Scottish Ministers, the reference in that subsection to each House of Parliament must be construed as a reference to the Scottish Parliament.]]]

Textual Amendments

- F114** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\), 178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F139** Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\)](#), [art. 1\(3\)](#), [Sch. 8](#) (with [arts. 2\(4\), 53, 57\(3\), 61\(4\)](#)); [S.R. 2009/304](#), [art. 3\(a\)](#)
- F140** Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), [s. 65](#), [Sch. 10](#) (with [ss. 51, 57\(3\), 60\(4\), 64\(5\)](#)); [S.I. 2009/2610](#), [art. 2\(b\)](#) (with [arts. 4-23](#))
- F142** S. 113F(1)(za) inserted (6.4.2007) by [Childcare Act 2006 \(c. 21\)](#), [s. 109\(2\)](#), [Sch. 2 para. 29\(a\)](#); [S.I. 2007/1019](#), [art. 4](#)
- F143** Words in s. 113F(1)(a) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), [s. 109\(2\)](#), [Sch. 2 para. 29\(b\)](#), [Sch. 3 Pt. 2](#); [S.I. 2008/2261](#), [art. 2](#) (with [Sch. 1](#))
- F144** Words in s. 113F(1)(c) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), [s. 109\(2\)](#), [Sch. 2 para. 29\(c\)](#), [Sch. 3 Pt. 2](#); [S.I. 2008/2261](#), [art. 2](#) (with [Sch. 1](#))

Commencement Information

- I10** S. 113F in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), [art. 2\(f\)](#)

114 Criminal record certificates: Crown employment.

- (1) The Secretary of State shall issue a criminal record certificate to any individual who—
- (a) makes an application under this section ^{F145}..., and
 - (b) [^{F146}pays in the prescribed manner any prescribed fee]
- (2) An application under this section must be accompanied by a statement by a Minister of the Crown that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant's suitability for an appointment by or under the Crown.
- (3) [^{F147}[^{F148}Sections 113A(3) to (6) and 113C to 113F]] [^{F148}Section 113A(3) to (6)] shall apply in relation to this section with any necessary modifications.

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

Textual Amendments

- F145** Words in s. 114(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (asp 14), **ss. 79(1), 101(2)** (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009](#) (c. 26), ss. 97(3), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F146** S. 114(1)(b) substituted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006](#) (S.S.I. 2006/50), arts. 1(1), **2(3)(b)**
- F147** Words in s. 114(3) substituted (1.4.2006 for S., 6.4.2006 for E.W., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005](#) (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 2**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2008/697, art. 2(e)
- F148** Words in s. 114(3) substituted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006](#) (c. 47), s. 65, **Sch. 9 para. 14(5)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.; and substituted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (asp 14), s. 101(2), **sch. 4 para. 31(c)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

Commencement Information

- I11** S. 114 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 114 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**
- I12** S. 114 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(g)**

^{F149}**115 Enhanced criminal record certificates.** **E+W+N.I.**

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Extent Information

- E1** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

- F149** S. 115 repealed (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005](#) (c. 15), ss. 163(1), 178(4)(d)(8), **Sch. 17 Pt. 2**; S.S.I. 2006/166, art. 2(1)(c)(d); S.I. 2006/378, art. 7(a)(f)

^{F149}^{F227}**115 Enhanced criminal record certificates.** **S**

.....]

Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

Textual Amendments

- F149** S. 115 repealed (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005](#) (c. 15), ss. 163(1), 178(4)(d)(8), **Sch. 17 Pt. 2**; S.S.I. 2006/166, art. 2(1)(c)(d); S.I. 2006/378, art. 7(a)(f)

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

F227 Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003](#) (asp 7), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2

116 **Enhanced criminal record certificates: judicial appointments and Crown employment.**

- (1) The Secretary of State shall issue an enhanced criminal record certificate to any individual who—
 - (a) makes an application under this section ^{F150}..., and
 - (b) [^{F151}pays in the prescribed manner any prescribed fee]
- (2) An application under this section must be accompanied by a statement by a Minister of the Crown, or a person nominated by a Minister of the Crown, that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant's suitability for—
 - (a) a judicial appointment, or
 - (b) an appointment by or under the Crown to a position [^{F152}to which subsection (3) or (4) of section 115 applies][^{F152}of such description as may be prescribed].
- (3) [^{F153}Sections 113B(3) to (11) and [^{F154}113C to 113F][^{F154}113BA to 113BC]] shall apply in relation to this section with any necessary modifications.

Textual Amendments

- F150** Words in s. 116(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (asp 14), **ss. 79(1)**, 101(2) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009](#) (c. 26), ss. 97(3), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F151** S. 116(1)(b) substituted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006](#) (S.S.I. 2006/50), arts. 1(1), **2(4)(b)**
- F152** Words in s. 116(2)(b) substituted (E.W.N.I.) (29.1.2004 for specified purposes for E.W., 6.4.2006 for E.W. in so far as not already in force, 1.4.2008 for N.I.) by [Criminal Justice Act 2003](#) (c. 44), s. 336(3)(4), **Sch. 35 para. 5**; S.I. 2004/81, art. 4(1)(2)(o)(ii); S.I. 2006/751, art. 2(c)(i); S.I. 2008/694, art. 2
- F153** Words in s. 116(3) substituted (1.4.2006 for S., 6.4.2006 for E.W., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005](#) (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 3(b)**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2008/697, art. 2(e)
- F154** Words in s. 116(3) substituted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006](#) (c. 47), s. 65, **Sch. 9 para. 14(6)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.

Modifications etc. (not altering text)

- C32** S. 116 modified (temp.) (N.I.) (with application in accordance with arts. 2, 14 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009](#) (S.R. 2009/304), **art. 15** (which modifying provision is revoked (10.9.2012) by [The Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order \(Northern Ireland\) 2012](#) (S.R. 2012/320), arts. 1, 4)

Commencement Information

- I13** S. 116 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 116 in force at 25.4.2002 for S. by S.S.I. 2002/124, art. 4

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

114 S. 116 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(h)**

117 Disputes about accuracy of certificates.

- (1) Where an applicant for a certificate under any of sections 112 to 116 believes that the information contained in the certificate is inaccurate he may make an application [^{F155}in writing] to the Secretary of State for a new certificate.
- (2) The Secretary of State shall consider any application under this section; and where he is of the opinion that the information in the certificate is inaccurate he shall issue a new certificate.
- [^{F156}(3) An application under this section may, in particular, request a review of any information contained in a certificate by virtue of section 113B(4).
- (4) The Scottish Ministers, on receiving such a request, must ask the chief officer of the relevant police force who provided that information to reconsider whether the chief officer still thinks that the information concerned might be relevant for the purpose in respect of which it was requested.]

Textual Amendments

F155 Words in s. 117(1) repealed (S.) (11.1.2008) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), **ss. 79(2), 101(2)** (with ss. 90, 99); S.S.I. 2007/564, **art. 2, sch.**

F156 S. 117(3)(4) inserted (S.) (11.1.2008) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 33** (with ss. 90, 99); S.S.I. 2007/564, **art. 2, sch.**

Commencement Information

115 S. 117 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**

S. 117 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

116 S. 117 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(i)**

118 Evidence of identity.

- (1) The Secretary of State may refuse to issue a certificate under this Part, or to consider an application under section 117 [^{F157}or 120], unless the application is supported by such evidence of identity as he may require.
- (2) In particular, the Secretary of State may refuse to issue a certificate or consider an application unless the applicant—
 - (a) has his fingerprints taken at such place and in such manner as may be prescribed, and
 - (b) pays the prescribed fee to such person as may be prescribed.
- [^{F158}(2A) For the purpose of verifying evidence of identity supplied in pursuance of subsection (1) the Secretary of State may obtain such information as he thinks is appropriate from data held—
 - (a) by the [^{F159}United Kingdom Passport Agency][^{F159}Identity and Passport Service];
 - (b) by the Driver and Vehicle Licensing Agency;
 - (c) by Driver and Vehicle Licensing Northern Ireland;

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- (d) by the Secretary of State in connection with keeping records of national insurance numbers;
 - (e) by such other persons or for such purposes as is prescribed.]
- [^{F160}(2B) The Scottish Ministers may require an applicant to have fingerprints taken under subsection (2) only if they are not satisfied by other evidence provided under subsection (1) as to the applicant's identity.]
- [^{F161}(3) The Scottish Ministers must arrange the destruction of any fingerprints taken in pursuance of subsection (2) as soon as reasonably practicable after they have been used for the purpose mentioned in subsection (1).]
- (4) Regulations prescribing a fee for the purposes of subsection (2)(b) shall make provision for a refund in cases of an application under section 117 where a new certificate is issued.

Textual Amendments

- F157** Words in s. 118(1) inserted (1.7.2005 for S., 1.7.2005 for E.W., 1.4.2008 for N.I.) by *Serious Organised Crime and Police Act 2005 (c. 15), ss. 164(2), 178(4)(d)(8); S.S.I. 2005/358, art. 2(c); S.I. 2005/1521, art. 3(3)(a); S.I. 2008/697, art. 2(b)*
- F158** S. 118(2A) inserted (1.7.2005 for S., 1.7.2005 for E.W., 1.4.2008 for N.I.) by *Serious Organised Crime and Police Act 2005 (c. 15), ss. 164(3), 178(4)(d)(8); S.S.I. 2005/358, art. 2(c); S.I. 2005/1521, art. 3(3)(a); S.I. 2008/697, art. 2(b)*
- F159** Words in s. 118(2A)(a) substituted (S.) (11.1.2008) by *Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), sch. 4 para. 34(a) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.*
- F160** S. 118(2B) inserted (S.) (11.1.2008) by *Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), sch. 4 para. 34(b) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.*
- F161** S. 118(3) substituted (S.) (11.1.2008) by *Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), sch. 4 para. 34(c) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.*

Commencement Information

- I17** S. 118 in force at 1.3.2002 for E.W. by *S.I. 2002/413, art. 2*
S. 118 in force at 25.4.2002 for S. by *S.S.I. 2002/124, art. 4*
- I18** S. 118 in force at 1.4.2008 for N.I. by *S.I. 2008/692, art. 2(j)*

119 Sources of information.

- (1) Any person who holds records of convictions or cautions for the use of police forces generally shall make those records available to the Secretary of State [^{F162}for the purposes of an application [^{F163}(whether for a certificate or for registration)] under this Part.] [^{F162}for the purpose of enabling him to carry out [^{F164}his functions under this Part in relation to—
- (b) the determination of whether a person should continue to be a registered person.]
[^{F164}a relevant function]]
- [^{F165}(1A) Any person who keeps a list mentioned in [^{F166}section 113C(3) or 113D(3)] above shall make the contents of that list available to the Secretary of State for the purpose of enabling him to carry out his functions under this Part in relation to—
- (a) any application for a certificate or for registration; or

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- (b) the determination of whether a person should continue to be a registered person.]
- [^{F167}(1B) The Secretary of State may require the chief officer of a police force to make available such information as he may specify for the purpose of determining, in relation to applications under section 113B, whether the police force is a relevant police force.]
- (2) Where the chief officer of a police force receives a request under section [^{F168}113B] or 116 [^{F169} or for the purposes of section 24 of the Safeguarding Vulnerable Groups Act 2006] he shall comply with it as soon as practicable.
- (3) The Secretary of State shall pay to the appropriate police authority, ^{F170}... [^{F171}such fee as he thinks appropriate] for information provided in accordance with [^{F172}subsection (2)] [^{F172}section 120A(4) or subsection (2) of this section].
- (4) Any person who holds records of fingerprints for the use of police forces generally shall make those records available to the Secretary of State [^{F162}for the purposes of an application under this Part.] [^{F162}for the purpose of enabling him to carry out his functions under this Part in relation to—
- (a) any application for a certificate or for registration; or
- (b) the determination of whether a person should continue to be a registered person.]
- (5) No proceedings shall lie against the Secretary of State by reason of an inaccuracy in the information made available or provided to him in accordance with this section.
- [^{F173}(6) For the purposes of this section references to a police force include any body mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.
- (7) In the case of such a body the reference in subsection (3) to the appropriate police authority must be construed as a reference to such body as is prescribed.]
- [^{F174}(8) In this section a relevant function is a function of the Secretary of State —
- (a) under this Part in relation to any application for a certificate or for registration;
- (b) under this Part in relation to the determination of whether a person should continue to be a registered person;
- (c) under section 24 of the Safeguarding Vulnerable Groups Act 2006 in relation to monitoring a person in relation to a regulated activity (within the meaning of that Act);
- (d) under paragraph 1, 2, 7 or 8 of Schedule 3 to that Act (considering whether criteria prescribed for the purpose of that paragraph apply to an individual).]

Textual Amendments

F162 Words in s. 119(1)(4) substituted (E.W.N.I.) (19.6.2001) by [2001 c. 16, s. 134\(2\)\(a\)](#); [S.I. 2001/2223, art. 2\(1\)\(c\)](#)

F163 Words in s. 119(1) inserted (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 70\(4\), 89\(2\)](#); [S.S.I. 2003/288, art. 2, sch.](#)

F164 Words in s. 119(1) substituted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), s. 65, Sch. 9 para. 14\(7\)\(a\)](#) (with ss. 51, 57(3), 60(4), 64(5)); [S.I. 2009/2610, art. 2\(a\)](#) (with arts. 4-23); [S.I. 2009/2611, art. 2, Sch.](#)

F165 S. 119(1A) inserted (E.W.N.I.) (19.6.2001) by [2001 c. 16, s. 134\(2\)\(b\)](#); [S.I. 2001/2223, art. 2\(1\)\(c\)](#)

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- F166** Words in s. 119(1A) substituted (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 4\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c)
- F167** S. 119(1B) inserted (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, [Sch. 9 para. 14\(7\)\(b\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.
- F168** Word in s. 119(2) substituted (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 4\(b\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c)
- F169** Words in s. 119(2) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, [Sch. 9 para. 14\(7\)\(c\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.
- F170** Words in s. 119 repealed (3.7.2000) by 1999 c. 29, ss. 325, 423, [Sch. 27 para. 112](#), [Sch. 34 Pt. VII](#) (with [Sch. 12 para. 9\(1\)](#)); S.I. 2000/1648, art. 2, [Sch.](#)
- F171** Words in s. 119(3) substituted (1.7.2005 for E.W., 1.4.2006 for S., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 165\(1\)\(a\)](#), 178(4)(d)(8); S.I. 2005/1521, art. 3(3)(b); S.S.I. 2006/166, art. 2(1)(c); S.I. 2008/697, art. 2(c)
- F172** Words in s. 119(3) substituted (E.W.N.I.) (19.6.2001) by 2001 c. 16, s. 134(2)(c); S.I. 2001/2223, art. 2(1)(c)
- F173** S. 119(6)(7) inserted (1.4.2006 for S., 6.4.2006 for E.W., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 165\(1\)\(b\)](#), 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(d); S.I. 2008/697, art. 2(c)
- F174** S. 119(8) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, [Sch. 9 para. 14\(7\)\(d\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.

Modifications etc. (not altering text)

- C33** S. 119 modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), [art. 8](#)

Commencement Information

- I19** S. 119 in force at 1.3.2002 for E.W. by S.I. 2002/413, [art. 2](#)
S. 119 in force at 25.4.2002 for S. by S.S.I. 2002/124, [art. 4](#)
- I20** S. 119 in force at 1.4.2008 for N.I. by S.I. 2008/692, [art. 2\(k\)](#)

[^{F175}119A] Further sources of information: Scotland

- (1) Any person who holds, in Scotland, records of convictions for the use of police forces generally shall make those records available to the Scottish Ministers for the purpose of enabling them to carry out their functions under this Part in relation to the determination of whether a person should continue to be a person registered under section 120.
- (2) Where a person holds records of convictions or cautions for the use of police forces generally (but is not required by subsection (1) or section 119(1) to make those records available to the Scottish Ministers) the Scottish Ministers may request that person to make those records available to them; and they may also request that information kept [^{F176} in a list mentioned in section 113C(3) or 113D(3)] be made so available.
- (3) In subsection (1), “person” does not include—
 - (a) a public body; or

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- (b) a holder of a public office,
unless that person is a Scottish public authority (as defined in section 126(1) of the Scotland Act 1998 (c. 46)).
- (4) This section is without prejudice to section 119; and subsection (5) of that section shall apply in relation to records made available in accordance with this section as it does in relation to information made available in accordance with that section.]

Textual Amendments

F175 S. 119A inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. **70(5)**, 89(2); S.S.I. 2006/168, art. 2

F176 Words in s. 119A(2) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 5](#); S.S.I. 2006/166, art. 2(1)(e)

[^{F177}119B] Independent monitor

- (1) There is to be an independent monitor for the purposes of this Part.
- (2) The independent monitor is a person appointed by the Secretary of State—
- (a) for such period, not exceeding three years, as the Secretary of State decides;
 - (b) on such terms as the Secretary of State decides.
- (3) A person may be appointed for a further period or periods.
- (4) The Secretary of State may terminate the appointment of the independent monitor before the end of the period mentioned in subsection (2)(a) by giving the monitor notice of the termination not less than three months before it is to take effect.
- [Before appointing a person to be the independent monitor, or terminating the
- ^{F178}(4A) appointment of the independent monitor, the Secretary of State must consult the Department of Justice in Northern Ireland.]
- (5) The independent monitor must review—
- (a) all cases in which information is disclosed to a registered person in pursuance of section 113B(6)(b);
 - (b) a sample of cases in which a certificate issued under section 113B has included information in pursuance of subsection (4)(b) of that section;
 - (c) a sample of cases in which the chief officer of a police force has decided that information must not be included in a certificate or report in pursuance of section 113B(4)(b) or disclosed in pursuance of section 113B(5)(c) and (6)(b);
 - (d) all cases in which information is withheld from an individual because it is information to which section 24(9) of the Safeguarding Vulnerable Groups Act 2006 applies;
 - (e) a sample of cases in which relevant information (within the meaning of section 24(8)(b) of that Act) is provided to an individual in pursuance of section 24(4)(a) of that Act.
- (6) The purpose of a review under subsection (5) is to ensure compliance with Article 8 of the European Convention of Human Rights.

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- (7) The independent monitor must in relation to each year make a report to the Secretary of State about the performance of police forces in exercising their functions under this Part.
- (8) The independent monitor may make recommendations to the Secretary of State as to—
 - (a) any guidance issued by the Secretary of State or which the monitor thinks it would be appropriate for the Secretary of State to issue;
 - (b) any changes to any enactment which the monitor thinks may be appropriate.
- (9) The chief officer of a police force must provide to the independent monitor such information as the monitor reasonably requires in connection with the exercise of his functions under this section.]

Textual Amendments

F177 S. 119B inserted (E.W.N.I.) (20.1.2009) by *Safeguarding Vulnerable Groups Act 2006* (c. 47), **ss. 28, 65** (with **ss. 51, 57(3), 60(4), 64(5)**); S.I. 2009/39, art. 2(1)(c)

F178 S. 119B(4A) inserted (12.4.2010) by *The Northern Ireland Act 1998* (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 37(2)** (with arts. 28-31)

120 Registered persons. **E+W+N.I.**

- (1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by the Secretary of State for the purposes of this Part.
- [^{F179}(2) Subject to regulations under section 120ZA and 120AA and to section 120A the Secretary of State shall include in the register any person who—
 - (a) applies to him in writing to be registered,
 - (b) satisfies the conditions in subsections (4) to (6), and
 - (c) has not in the period of two years ending with the date of the application been removed from the register under section 120A or 120AA.]
- ^{F180}(3)
- (4) A person applying for registration under this section must be—
 - (a) a body corporate or unincorporate,
 - (b) a person appointed to an office by virtue of any enactment, or
 - (c) an individual who employs others in the course of a business.
- (5) A body applying for registration under this section must satisfy the Secretary of State that it—
 - (a) is likely to ask exempted questions, or
 - (b) is likely to [^{F181}countersign][^{F181}act as the registered person in relation to] applications under section [^{F182}113A or 113B] at the request of bodies or individuals asking exempted questions.
- (6) A person, other than a body, applying for registration under this section must satisfy the Secretary of State that he is likely to ask exempted questions.
- (7) In this section “exempted question” has the same meaning as in section [^{F183}113A].

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

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Textual Amendments

- F179** S. 120(2) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 6\(2\)](#); S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F180** S. 120(3) repealed (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 6\(3\)](#), [Sch. 37 Pt. 11](#); S.I. 2004/81, art. 4(1)(2)(p); S.I. 2007/3340, art. 2(b)
- F181** Words in s. 120(5)(b) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [5](#)
- F182** Words in s. 120(5)(b) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(b\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F183** Word in s. 120(7) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(c\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

Modifications etc. (not altering text)

- C34** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

Commencement Information

- I21** S. 120(3) in force for E.W. at 19.3.2001 and s. 120(1)(2)(4)-(7) in force for E.W. at 1.5.2001 by [S.I. 2001/1097](#), [art. 2](#)
S. 120(3) in force for S. at 1.1.2002 and s. 120(1)(2)(4)-(7) in force for S. at 1.2.2002 by [S.S.I. 2001/482](#), [art. 2](#)
- I22** S. 120 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(a\)](#)

[^{F227}120 Registered persons. **S**

- (1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by the Secretary of State for the purposes of this Part.
- (2) Subject to [^{F249}section 120A and] regulations under subsection (3), the Secretary of State shall include in the register any person who applies to him ^{F250}... to be registered and satisfies the conditions in subsections (4) to (6).
- (3) The Secretary of State may make regulations about the maintenance of the register; and regulations may, in particular, provide for—
 - (a) the information to be included in the register,
 - (aa) ^{F251}[the nomination by—
 - (i) a body corporate or unincorporate; or
 - (ii) a person appointed to an office by virtue of an enactment,
 whether that body or person is registered or applying to be registered, of an individual to act for it or, as the case may be, him in relation to the countersigning of applications under this Part;
 - (ab) the refusal by the Scottish Ministers, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept any nomination made by virtue of this subsection;
 - (ac) as to the period which must elapse before any person refused registration or removed from the register may apply to be included in the register;]

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

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- (b) the removal from the register of persons who are, in the opinion of the Secretary of State, no longer likely to wish to countersign applications under section [F²⁵²113A or 113B], and
 - (c) the payment of fees.
- (4) A person applying for registration under this section must be—
- (a) a body corporate or unincorporate,
 - (b) a person appointed to an office by virtue of any enactment, or
 - (c) an individual who employs others in the course of a business.
- (5) A body applying for registration under this section must satisfy the Secretary of State that it—
- (a) is likely to ask exempted questions, or
 - (b) is likely to countersign applications under section [F¹⁸²113A or 113B] at the request of bodies or individuals asking exempted questions.
- (6) A person, other than a body, applying for registration under this section must satisfy the Secretary of State that he is likely to ask exempted questions.
- (7) In this section “exempted question” has the same meaning as in section [F¹⁸³113A].]

Extent Information

- E5** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

Textual Amendments

- F182** Words in s. 120(5)(b) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(b\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F183** Word in s. 120(7) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(c\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F227** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 70\(8\)](#), 89(2); S.S.I. 2006/168, art. 2
- F249** Words in s. 120(2) inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 70\(6\)\(a\)](#), 89(2); S.S.I. 2006/168, art. 2
- F250** Words in s. 120(2) repealed (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 79\(2\)](#), 101(2) (with [ss. 90](#), 99); S.S.I. 2007/564, art. 2, sch.
- F251** S. 120(3)(aa)-(ac) inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 70\(6\)\(b\)](#), 89(2); S.S.I. 2006/168, art. 2
- F252** Words in s. 120(3)(b) substituted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2007/3341, art. 2(d)

Commencement Information

- I44** S. 120(3) in force at 19.3.2001 for E.W. and s. 120(1)(2)(4)-(7) in force at 1.5.2001 for E.W. by S.I. 2001/1097, [art. 2](#)
S. 120(3) in force at 1.1.2002 for S. and s. 120(1)(2)(4)-(7) in force at 1.2.2002 for S. by S.S.I. 2001/482, [art. 2](#)

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^{F184} 120ZA Regulations about registration

- (1) The Secretary of State may by regulations make further provision about registration.
- (2) Regulations under this section may in particular make provision for—
 - (a) the payment of fees,
 - (b) the information to be included in the register,
 - (c) the registration of any person to be subject to conditions,
 - (d) the nomination by—
 - (i) a body corporate or unincorporate, or
 - (ii) a person appointed to an office by virtue of any enactment, of the individuals authorised to act for it or, as the case may be, him in relation to the countersigning of applications under this Part ^{F185} or the transmitting of applications under section 113A(2A) or 113B(2A)], and
 - (e) the refusal by the Secretary of State, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept the nomination of a person as so authorised.
- (3) The provision which may be made by virtue of subsection (2)(c) includes provision—
 - (a) for the registration or continued registration of any person to be subject to prescribed conditions or, if the regulations so provide, such conditions as the Secretary of State thinks fit, and
 - (b) for the Secretary of State to vary or revoke those conditions.
- (4) The conditions imposed by virtue of subsection (2)(c) may in particular include conditions—
 - (a) requiring a registered person, before ^{F186}he countersigns]^{F186} acting as the registered person in relation to] an application at an individual's request, to verify the identity of that individual in the prescribed manner,
 - (b) requiring an application under section ^{F187}113A or 113B] to be transmitted by electronic means to the Secretary of State by the ^{F188}registered person who countersigns it]^{F188} person who acts as the registered person in relation to the application], and
 - (c) requiring a registered person to comply with any code of practice for the time being in force under section 122.]

Textual Amendments

- F184** S. 120ZA inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 7](#); S.I. 2004/81, art. 4(1)(2)(o)(i); S.I. 2007/3340, art. 2(b)
- F185** Words in s. 120ZA(2)(d) inserted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [6\(2\)](#)
- F186** Words in s. 120ZA(4)(a) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [6\(3\)\(a\)](#)
- F187** Words in s. 120ZA(4)(b) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 7](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F188** Words in s. 120ZA(4)(b) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [6\(3\)\(b\)](#)

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

Commencement Information

I23 S. 120ZA in force at 3.12.2007 for N.I. by S.I. 2007/3342, art. 2(b)

[^{F189}120ZB] Regulations about registration

- (1) The Scottish Ministers may by regulations make further provision about registration.
- (2) Regulations under this section may in particular make provision for—
 - (a) the payment of fees;
 - (b) the information to be included in the register;
 - (c) the registration of any person to be subject to conditions;
 - (d) the nomination by—
 - (i) a body corporate or unincorporated; or
 - (ii) a person appointed to an office by virtue of an enactment, whether that body or person is registered or applying to be registered, of an individual to act for the body or, as the case may be, person in relation to disclosure applications;
 - (e) the refusal by the Scottish Ministers, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept any nomination made by virtue of this section;
 - (f) the refusal by the Scottish Ministers to include persons who, in the opinion of the Scottish Ministers, are likely to act in relation to fewer disclosure applications in any period of 12 months than a minimum number specified in the regulations;
 - (g) the removal from the register of persons who have, in any period of 12 months during which they were registered, acted in relation to fewer disclosure applications than the minimum number specified under paragraph (f);
 - (h) the removal from the register of persons who are, in the opinion of the Scottish Ministers, no longer likely to wish to act in relation to disclosure applications;
 - (i) the removal from the register of any person who has breached any condition of the person's registration; and
 - (j) the period which must elapse before any person refused registration or removed from the register may apply to be included in the register.

[The provision which may be made by virtue of subsection (2)(a) includes in particular ^{F190}(2A) provision for—

- (a) the payment of fees in respect of applications to be listed in the register,
 - (b) the payment of different fees in different circumstances,
 - (c) annual or other recurring fees to be paid in respect of registration, and
 - (d) such annual or other recurring fees to be paid in advance or in arrears.
- (2B) Where provision is made under subsection (2)(a) for a fee to be charged in respect of an application to be listed in the register, the Scottish Ministers need not consider the application unless the fee is paid.]
- (3) The provision which may be made by virtue of subsection (2)(c) includes provision—
 - (a) for the registration or continued registration of any person to be subject to prescribed conditions or, if the regulations so provide, such conditions as the Scottish Ministers think fit; and
 - (b) for the Scottish Ministers to vary or revoke those conditions.

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

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- (4) In subsection (2), references to acting in relation to disclosure applications are to be read as references to—
- (a) countersigning applications under section 113A or 113B; or
 - (b) making declarations in relation to requests for disclosures under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14).]

Textual Amendments

F189 S. 120ZB inserted (S.) (12.10.2010) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 81\(2\), 101\(2\)](#) (with [ss. 90, 99](#)); S.S.I. 2010/344, art. 2(a)(iv)

F190 S. 120ZB(2A)(2B) inserted (S.) (12.10.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 108\(4\), 206\(1\)](#); S.S.I. 2010/344, art. 2(b)(ii)

[^{F191}120A Refusal and cancellation of registration [^{F192}on grounds related to disclosure] **E** **+W+N.I.**

- (1) The Secretary of State may refuse to include a person in the register maintained for the purposes of this Part if it appears to him that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State's opinion, is not a suitable person to have access to that information.
- (2) The Secretary of State may remove a person from the register if it appears to the Secretary of State—
 - (a) that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State's opinion, is not a suitable person to have access to that information; or
 - (b) that the registration of that person has resulted in information becoming known to such an individual.
- (3) In determining for the purposes of this section whether an individual is a suitable person to have access to any information, the Secretary of State may have regard, in particular, to—
 - (a) any information relating to that person which concerns a relevant matter;
 - (b) whether that person is included in any list mentioned in [^{F193}section 113C(3) or 113D(3)]; and
 - (c) any information provided to the Secretary of State under subsection (4).
- (4) It shall be the duty of the chief officer of any police force to comply, as soon as practicable after receiving it, with any request by the Secretary of State to provide the Secretary of State with information which—
 - (a) is available to the chief officer;
 - (b) relates to—
 - (i) an applicant for registration;
 - (ii) a registered person; or
 - (iii) an individual who is likely to have access to information in consequence of [^{F194}the countersigning of applications by a particular applicant for registration or by a particular registered person][^{F194}a particular applicant for registration, or a particular registered person, acting as the registered person in relation to applications under this Part];

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and

- (c) concerns a matter which the Secretary of State has notified to the chief officer to be a matter which, in the opinion of the Secretary of State, is relevant to the determination of the suitability of individuals for having access to the information that may be provided in consequence of [F195 the countersigning of][F195 a person acting as the registered person in relation to] applications under this Part.

(5) In this section “relevant matter” has the same meaning as in section [F196 113A].

[For the purposes of this section references to a police force include any body F197(6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.]]

Extent Information

- E2** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

- F191** S. 120A inserted (E.W.N.I.) (19.6.2001) by 2001 c. 16, s. 134(1); S.I. 2001/2223, art. 2(1)(c)
- F192** Words in s. 120A inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 35 para. 8; S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F193** Words in s. 120A(3)(b) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), Sch. 14 para. 8(a); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F194** Words in s. 120A(4)(b)(iii) substituted (E.W.) (2.3.2009) by The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I. 2009/203), arts. 1(1), 7(a)
- F195** Words in s. 120A(4)(c) substituted (E.W.) (2.3.2009) by The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I. 2009/203), arts. 1(1), 7(b)
- F196** Word in s. 120A(5) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), Sch. 14 para. 8(b); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F197** S. 120A(6) inserted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 165(2), 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(d); S.I. 2007/3341, art. 2(b)

Modifications etc. (not altering text)

- C35** S. 120A modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by Safeguarding Vulnerable Groups (Regulated Activity, Transitional Provisions and Commencement No. 4) Order (Northern Ireland) 2009 (S.R. 2009/304), art. 9
- C36** S. 120A modified (temp.) (12.10.2009) by The Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009 (S.I. 2009/2610), arts. 1(1), 8
- C37** S. 120A(3) applied (13.8.2001) by S.I. 2001/1194, reg. 3A(4) (as inserted by S.I. 2001/2498, reg. 2(3))

Commencement Information

- I24** S. 120A in force at 3.12.2007 for N.I. by S.I. 2007/3342, art. 2(c)

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

^{F227}
^{F253} **120A** **Refusal and cancellation of registration: Scotland** **S**

- (1) The Scottish Ministers may refuse to include a person in, or may remove a person from, a register maintained under section 120 for the purposes of this Part if it appears to them that the registration of that person is likely to make it possible for information to become available to an individual who, in their opinion, is not a suitable person to have access to that information.
- (2) The Scottish Ministers may also remove a person from any such register if it appears to them that the registration of that person has resulted in information becoming known to such an individual.
- (3) In determining, for the purposes of this section, whether an individual is a suitable person to have access to information, the Scottish Ministers may have regard, in particular, to—
 - (a) any information relating to the individual which concerns a relevant matter (“relevant matter” having the same meaning as in section ^{F254}113A);
 - (b) whether that person is included in any list mentioned in section ^{F255}113C(3) or 113D(3);
 - (c) any information provided to them under subsection (4);
 - (d) any information provided to them by the chief officer of a police force in England and Wales or Northern Ireland in response to a request by them for such information as is available to that officer, relates to any such matter as is mentioned in paragraph (b) of subsection (4) and concerns such matter as is mentioned in paragraph (c) of that subsection;
 - (e) anything which has been done—
 - (i) under subsection (1) or (2) or section 122(3); or
 - (ii) in England and Wales or Northern Ireland under the provisions of this Act which apply in England and Wales or Northern Ireland and correspond to subsection (1) or (2),
 and any information on the basis of which that thing was done.
- (4) A chief constable of a police force in Scotland shall comply, as soon as practicable after receiving it, with any request by the Scottish Ministers to provide them with information which—
 - (a) is available to him;
 - (b) relates to—
 - (i) an applicant for registration under section 120;
 - (ii) a person so registered;
 - (iii) an individual who is likely to have access to information in consequence of the countersigning of applications by a particular applicant for such registration or by a particular person so registered; and
 - (c) concerns a matter which they have notified the chief constable is a matter which in their opinion is relevant to the determination of the suitability of individuals for having access to information which may be provided by virtue of this Part.
- (5) The Scottish Ministers shall pay to a police authority ^{F256}such fee as they consider appropriate].

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

[For the purposes of this section references to a police force include any body
F257(6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a
chief officer must be construed accordingly.]

[In the case of such a body the reference in subsection (5) to a police authority must be
F258(7) construed as a reference to such body as is prescribed.]]]

Extent Information

E6 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F227 Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2

F253 S. 120A inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(2)**, 89(2); S.S.I. 2006/168, art. 2

F254 Word in s. 120A(3)(a) substituted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 9(a)**; S.S.I. 2006/166, art. 2(1)(e)

F255 Words in s. 120A(3)(b) substituted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 9(b)**; S.S.I. 2006/166, art. 2(1)(e)

F256 Words in s. 120A(5) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 166(1)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c)

F257 S. 120A(6) inserted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 165(2)**, 178(4)(d)(8); S.S.I. 2006/166, **art. 2(1)(c)**; S.I. 2006/378, **art. 7(d)**; S.I. 2007/3341, **art. 2(b)**

F258 S. 120A(7) inserted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 9(c)**; S.S.I. 2006/166, art. 2(1)(e)

Modifications etc. (not altering text)

C36 S. 120A modified (temp.) (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\)](#), arts. 1(1), **8**

[^{F198}120AB] **Refusal, cancellation or suspension of registration on other grounds**

- (1) Regulations may make provision enabling the Secretary of State in prescribed cases to refuse to register a person who, in the opinion of the Secretary of State, is likely to [^{F199}countersign][^{F199}act as the registered person in relation to] fewer applications under this Part in any period of twelve months than a prescribed minimum number.
- (2) Subsection (3) applies where a registered person—
 - (a) is, in the opinion of the Secretary of State, no longer likely to wish to [^{F200}countersign][^{F200}act as the registered person in relation to] applications under this Part,
 - (b) has, in any period of twelve months during which he was registered, [^{F201}countersigned][^{F201}acted as the registered person in relation to] fewer applications under this Part than the minimum number specified in respect of him by regulations under subsection (1), or
 - (c) has failed to comply with any condition of his registration.
- (3) Subject to section 120AB, the Secretary of State may—

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- (a) suspend that person's registration for such period not exceeding 6 months as the Secretary of State thinks fit, or
- (b) remove that person from the register.

Textual Amendments

F198 Ss. 120AA, 120AB inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003](#) (c. 44), s. 336(3)(4), [Sch. 35 para. 9](#); S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)

F199 Words in s. 120AA(1) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009](#) (S.I. 2009/203), arts. 1(1), [8\(2\)](#)

F200 Words in s. 120AA(2)(a) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009](#) (S.I. 2009/203), arts. 1(1), [8\(3\)\(a\)](#)

F201 Words in s. 120AA(2)(b) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009](#) (S.I. 2009/203), arts. 1(1), [8\(3\)\(b\)](#)

Commencement Information

I25 S. 120AA in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(d\)](#)

120AB Procedure for cancellation or suspension under section 120AA

- (1) Before cancelling or suspending a person's registration by virtue of section 120AA, the Secretary of State must send him written notice of his intention to do so.
- (2) Every such notice must—
 - (a) give the Secretary of State's reasons for proposing to cancel or suspend the registration, and
 - (b) inform the person concerned of his right under subsection (3) to make representations.
- (3) A person who receives such a notice may, within 21 days of service, make representations in writing to the Secretary of State as to why the registration should not be cancelled or suspended.
- (4) After considering such representations, the Secretary of State must give the registered person written notice—
 - (a) that at the end of a further period of six weeks beginning with the date of service, the person's registration will be cancelled or suspended, or
 - (b) that he does not propose to take any further action.
- (5) If no representations are received within the period mentioned in subsection (3) the Secretary of State may cancel or suspend the person's registration at the end of the period mentioned in that subsection.
- (6) Subsection (1) does not prevent the Secretary of State from imposing on the registered person a lesser sanction than that specified in the notice under that subsection.
- (7) Any notice under this section that is required to be given in writing may be given by being transmitted electronically.
- (8) This section does not apply where—
 - (a) the Secretary of State is satisfied, in the case of a registered person other than a body, that the person has died or is incapable, by reason of physical or

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mental impairment, of [F202 countersigning][F202 acting as the registered person in relation to] applications under this Part, or

(b) the registered person has requested to be removed from the register.

(9) The Secretary of State may by regulations amend subsection (4)(a) by substituting for the period there specified, such other period as may be specified in the regulations.]

Textual Amendments

F198 Ss. 120AA, 120AB inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003](#) (c. 44), s. 336(3)(4), [Sch. 35 para. 9](#); S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)

F202 Words in s. 120AB(8) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009](#) (S.I. 2009/203), arts. 1(1), [9](#)

Commencement Information

I26 S. 120AB in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(e\)](#)

121 Performance by constables on central service in Scotland of functions under this Part.

[F203 In Scotland a constable engaged on central service (within the meaning of section 38 of the ^{M12}Police (Scotland) Act 1967) may perform functions under this Part (other than functions [F204 in relation to the making of regulations or orders]) on behalf of the Secretary of State; and without prejudice to the application of subsection (5) of section 119 in respect of any other person performing functions on behalf of the Secretary of State, that subsection shall apply in respect of any constable performing functions by virtue of this section as the subsection applies in respect of the Secretary of State.]

Textual Amendments

F203 S. 121 repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (asp 14), s. 101(2), [sch. 4 para. 38](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.

F204 Words in s. 121 substituted (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005](#) (c. 15), s. 178(4)(e)(8), [Sch. 14 para. 10](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c)

Commencement Information

I27 S. 121 in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), [art. 2](#)

S. 121 in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), [art. 4](#)

Marginal Citations

M12 [1967 c. 77](#).

122 Code of practice.

(1) The Secretary of State shall publish, and may from time to time revise, a code of practice in connection with the use of information provided to [F205, or the discharge of any function by,] registered persons under this Part.

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- (2) The Secretary of State shall lay before Parliament the code of practice under this section as soon as practicable after publication and after revision.
- (3) ^{F206}The Secretary of State may refuse to issue a certificate under section ^{F207}113A or 113B] if he believes that the registered person who countersigned the application]—
^{F206}Subsection (3A) applies if the Secretary of State thinks that the ^{F208}registered person who countersigned]^{F208}person who acted as the registered person in relation to] an application for a certificate under section 113A or 113B]—
- (a) has failed to comply with the code of practice under this section, or
 - (b) ^{F209}countersigned]^{F209}acted as the registered person] at the request of a body which, or individual who, has failed to comply with the code of practice.
- ^{F210}(3A) The Secretary of State may—
- (a) refuse to issue the certificate;
 - (b) suspend the registration of the person;
 - (c) cancel the registration of the person.
- (3B) Section 120AB applies if the Secretary of State proposes to suspend or cancel a person's registration under subsection (3A) above as it applies if he proposes to suspend or cancel a person's registration by virtue of section 120AA.]
- ^{F211}(4) Where the Scottish Ministers have reason to believe that—
- (a) a registered person; or
 - (b) a body or individual at whose request a registered person has countersigned or is likely to countersign an application under section ^{F212}113A or 113B],
- has failed to comply with the code of practice, they may remove the registered person from the register or impose conditions on him as respects his continuing to be listed in the register]

Textual Amendments

- F205** Words in s. 122(1) inserted (S.) (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 70(7)(a)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F206** Words in s. 122(3) substituted (E.W.N.I.) (20.1.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), **ss. 29(3)**, 65 (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/39, art. 2(1)(d)
- F207** Words in s. 122(3) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 11**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F208** Words in s. 122(3) substituted (E.W.) (2.3.2009) by The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I. 2009/203), arts. 1(1), **10(a)**
- F209** Words in s. 122(3)(b) substituted (E.W.) (2.3.2009) by The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I. 2009/203), arts. 1(1), **10(b)**
- F210** S. 122(3A)(3B) inserted (E.W.N.I.) (20.1.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), **ss. 29(4)**, 65 (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/39, art. 2(1)(d)
- F211** S. 122(4) added (S.) (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 70(7)(b)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F212** Words in s. 122(4)(b) substituted (1.4.2006 for S.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 11**; S.S.I. 2006/166

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Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

Commencement Information

- I28** S. 122(1)(2) in force at 19.3.2001 for E.W. by [S.I. 2001/1097](#), [art. 2\(1\)](#); s. 122(3) in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), [art. 2](#)
S. 122(1)(2) in force at 1.1.2002 for S. by [S.S.I. 2001/482](#), [art. 2\(1\)](#); s. 122(3) in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), [art. 4](#)
- I29** S. 122 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(f\)](#)

[^{F213}122A] Delegation of functions of Secretary of State

- (1) The Secretary of State may, to such extent and subject to such conditions as he thinks fit, delegate any relevant function of his under this Part to such person as he may determine.
- (2) A function is relevant for the purposes of subsection (1) if it does not consist of a power—
 - (a) to make regulations, or
 - (b) to publish or revise a code of practice or to lay any such code before Parliament.
- (3) A delegation under subsection (1) may be varied or revoked at any time.]

Textual Amendments

- F213** S. 122A inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 10](#); [S.I. 2004/81](#), [art. 4\(1\)\(2\)\(o\)\(i\)](#); [S.I. 2007/3340](#), [art. 2\(b\)](#)

Commencement Information

- I30** S. 122A in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(g\)](#)

[^{F214}122B] Delegation of functions of Scottish Ministers

- (1) The Scottish Ministers may, to such extent and subject to such conditions as they think appropriate, delegate any of their functions under this Part (other than excepted functions) to such person as they may determine.
- (2) An excepted function is a function—
 - (a) relating to the making of regulations or orders;
 - (b) relating to the publishing or revising of a code of practice;
 - (c) relating to the laying of a code of practice before the Scottish Parliament;
 - (d) relating to the determination of an appropriate fee under section 113B(5A) or 119(3); or
 - (e) under section 125A.
- (3) A delegation under subsection (1) may be varied or revoked at any time.
- (4) No proceedings are competent against a person performing functions delegated under this section by reason of an inaccuracy in the information made available or provided to the person in accordance with section 119.]

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: Police Act 1997 is up to date with all changes known to be in force on or before 09 July 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)

Textual Amendments

F214 S. 122B inserted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 40](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.

123 Offences: falsification, &c.

- (1) A person commits an offence if, with intent to deceive, he—
 - (a) makes a false certificate under this Part,
 - (b) alters a certificate under this Part,
 - (c) uses a certificate under this Part which relates to another person in a way which suggests that it relates to himself, or
 - (d) allows a certificate under this Part which relates to him to be used by another person in a way which suggests that it relates to that other person.
- (2) A person commits an offence if he knowingly makes a false statement for the purpose of obtaining, or enabling another person to obtain, a certificate under this Part.
- (3) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

Commencement Information

- I31** S. 123 in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), [art. 2](#)
 S. 123 in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), [art. 4](#)
- I32** S. 123 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(h\)](#)

124 Offences: disclosure.

- (1) A member, officer or employee of a body registered under section 120 commits an offence if he discloses information provided following an application under section ^[F215]113A or 113B unless he discloses it, in the course of his duties,—
 - (a) to another member, officer or employee of the registered body,
 - (b) to a member, officer or employee of a body at the request of which the registered body ^[F216]countersigned^[F216]acted as the registered person in relation to] the application, or
 - (c) to an individual at whose request the registered body ^[F216]countersigned^[F216]acted as the registered person in relation to] the relevant application.
- (2) Where information is provided under section ^[F217]113A or 113B] following an application ^[F218]countersigned^[F218]in relation to which the person who acted as the registered person did so] at the request of a body which is not registered under section 120, a member, officer or employee of the body commits an offence if he discloses the information unless he discloses it, in the course of his duties, to another member, officer or employee of that body.
- (3) Where information is provided under section ^[F219]113A or 113B] following an application ^[F220]countersigned by or at the request of an individual^[F220]in relation to

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which an individual acted as the registered person, or in relation to which the person who acted as the registered person did so at the request of an individual]—

- (a) the individual commits an offence if he discloses the information unless he discloses it to an employee of his for the purpose of the employee's duties, and
 - (b) an employee of the individual commits an offence if he discloses the information unless he discloses it, in the course of his duties, to another employee of the individual.
- (4) Where information provided under section [F221 113A or 113B] is disclosed to a person and the disclosure—
- (a) is an offence under this section, or
 - (b) would be an offence under this section but for subsection (5) or (6)(a), (d), (e) or (f),
- the person to whom the information is disclosed commits an offence (subject to subsections (5) and (6)) if he discloses it to any other person.
- (5) Subsections (1) to (4) do not apply to a disclosure of information provided in accordance with section [F222 113B(5)] which is made with the written consent of the chief officer who provided the information.
- (6) Subsections (1) to (4) do not apply to a disclosure of information contained in a certificate under section [F223 113A or 113B] which is made—
- (a) with the written consent of the applicant for the certificate, or
 - (b) to a government department, or
 - (c) to a person appointed to an office by virtue of any enactment, or
 - (d) in accordance with an obligation to provide information under or by virtue of any enactment, or
 - (e) for the purposes of answering an exempted question (within the meaning of section [F224 113A]) of a kind specified in regulations made by the Secretary of State, or
 - (f) for some other purpose specified in regulations made by the Secretary of State.
- (7) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale, or to both.

Textual Amendments

- F215** Words in s. 124(1) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F216** Words in s. 124(1)(b)(c) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [11\(2\)](#)
- F217** Words in s. 124(2) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F218** Words in s. 124(2) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [11\(3\)](#)
- F219** Words in s. 124(3) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

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- F220** Words in s. 124(3) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **11(4)**
- F221** Words in s. 124(4) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 12(a)**; [S.S.I. 2006/166](#), art. 2(1)(e); [S.I. 2006/378](#), art. 7(c); [S.I. 2007/3341](#), art. 2(d)
- F222** Word in s. 124(5) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 12(b)**; [S.S.I. 2006/166](#), art. 2(1)(e); [S.I. 2006/378](#), art. 7(c); [S.I. 2007/3341](#), art. 2(d)
- F223** Words in s. 124(6) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 12(a)**; [S.S.I. 2006/166](#), art. 2(1)(e); [S.I. 2006/378](#), art. 7(c); [S.I. 2007/3341](#), art. 2(d)
- F224** Word in s. 124(6)(e) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 12(c)**; [S.S.I. 2006/166](#), art. 2(1)(e); [S.I. 2006/378](#), art. 7(c); [S.I. 2007/3341](#), art. 2(d)

Commencement Information

- I33** S. 124 in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), **art. 2**
 S. 124 in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), **art. 4**
- I34** S. 124 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), **art. 2(i)**

[^{F225}124A] **Further offences: disclosure of information obtained in connection with delegated function E+W+N.I.**

- (1) Any person who is engaged in the discharge of functions conferred by this Part on the Secretary of State commits an offence if he discloses information which has been obtained by him in connection with those functions and which relates to a particular person unless he discloses the information, in the course of his duties,—
- (a) to another person engaged in the discharge of those functions,
 - (b) to the chief officer of a police force in connection with a request under this Part to provide information to the Secretary of State, or
 - (c) to an applicant or registered person who is entitled under this Part to the information disclosed to him.
- (2) Where information is disclosed to a person and the disclosure—
- (a) is an offence under subsection (1), or
 - (b) would be an offence under subsection (1) but for subsection (3)(a), (d) or (e),
- the person to whom the information is disclosed commits an offence if he discloses it to any other person.
- (3) Subsection (1) does not apply to a disclosure of information which is made—
- (a) with the written consent of the person to whom the information relates,
 - (b) to a government department,
 - (c) to a person appointed to an office by virtue of any enactment,
 - (d) in accordance with an obligation to provide information under or by virtue of any enactment, or
 - (e) for some other purpose specified in regulations made by the Secretary of State.
- (4) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 3 on the standard scale, or to both.

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

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- (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4) to 51 weeks is to be read as a reference to 6 months.

[For the purposes of this section the reference to a police force includes any body
^{F226}(6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and the reference to a chief officer must be construed accordingly.]]

Extent Information

E3 This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

F225 S. 124A inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 11](#); S.I. 2004/81, art. 4(1)(2)(o)(i); S.I. 2007/3340, art. 2(b)

F226 S. 124A(6) inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 165\(3\)](#), 178(4)(d)(8); S.I. 2006/378, art. 7(d); S.I. 2007/3341, art. 2(b)

Commencement Information

I35 S. 124A in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(j\)](#)

[^{F227}124A] **Review of certain decisions as to registration** S

- (1) Where the Scottish Ministers decide to refuse to include a person in the register maintained for the purposes of this Part or, other than by virtue of section 120(3)(b), to remove him from that register they shall notify him in writing of that decision and of their reason for so deciding and shall send a copy of that notification to the Secretary of State.
- (2) If the person considers that the information upon which the decision was based may have been inaccurate he may, by written notice to the Scottish Ministers setting out his reason for so considering, require them to review the decision; and they shall notify him in writing of the results of their review and of any consequential change in the decision and shall send a copy of—
- (a) the notice; and
 - (b) the notification,
- to the Secretary of State.
- (3) Any notification given by the Scottish Ministers under subsection (1) or (2) shall include information as to the provisions of any regulations made under section 120(3)(ac).
- (4) The Scottish Ministers may, for the purposes of this section, make regulations as to procedure; and such regulations may, in particular, make provision in relation to—
- (a) information to be included in any notification under subsection (1) or (2); and
 - (b) the period within which—
 - (i) a requirement may be made under subsection (2); or
 - (ii) a decision under subsection (1) is to be implemented.]

Status: Point in time view as at 12/10/2010. This version of this Act contains provisions that are prospective.

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Extent Information

- E7** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

- F227** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. **70(8)**, 89(2); S.S.I. 2006/168, art. 2

[^{F227}124B] Scottish annotated list of certificated persons

- (1) The Scottish Ministers shall maintain an annotated list for the purposes of this Part and shall include in that list all persons to whom a criminal record certificate, or as the case may be an enhanced criminal record certificate, has been issued under any of sections 113 to 116 of this Act.
- (2) The Scottish Ministers may make regulations about the maintenance of the list; and such regulations may, in particular, provide for—
 - (a) the information to be included in the list;
 - (b) the details to be provided, for the purposes of this section, by persons applying to be issued a criminal record certificate or enhanced criminal record certificate or countersigning any such application;
 - (c) the procedure to be followed as respects the exercise of such discretion as is afforded them by subsection (3).
- (3) The Scottish Ministers may, as respects a person included in the list, if they are satisfied that it is appropriate to do so, notify the registered person who countersigned his application for the certificate in question (or on whose behalf that application was countersigned) or whomever else made the requisite statement which accompanied that application, about any relevant matter relating to the listed person (“relevant matter” having the same meaning as in section 113(5)) of which they become aware after issuing that certificate.
- (4) The Scottish Ministers are not to be satisfied as is mentioned in subsection (3) unless they are satisfied that the exempted question for the purpose of which the certificate was required remains relevant for the person to whom notification would, under that subsection, be given.
- (5) Regulations under paragraph (c) of subsection (2)—
 - (a) shall provide for there to be an opportunity for a listed person to make representations as respects whether the Scottish Ministers should be satisfied as is mentioned in subsection (3) and require them to have regard to those representations before giving notification under that subsection; and
 - (b) may require the person who would receive that notification (not being a person who is a Minister of the Crown) to provide them with such information as is in his possession and to which it would be appropriate for them to have regard as respects the exercise of the discretion mentioned in that paragraph.

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Textual Amendments

F227 Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2

125 Regulations.

- (1) Anything authorised or required by any provision of this Part to be prescribed shall be prescribed by regulations made by the Secretary of State.
 - (2) Regulations under this Part shall be made by statutory instrument.
 - ^{F228}(3)
 - (4) A statutory instrument ^{F229}... shall be subject to annulment pursuant to a resolution of either House of Parliament.
 - (5) Regulations under this Part may make different provision for different cases.
- [If the power mentioned in subsection (1) is exercised by the Scottish Ministers, the ^{F230}(6) reference in [^{F231}subsection (3)][^{F231}subsection (4)] to each House of Parliament must be construed as a reference to the Scottish Parliament.]

Textual Amendments

F227 Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2

F228 S. 125(3) repealed (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 17 Pt. 2**; S.S.I. 2006/166, **art. 2(1)(d)**; and repealed (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 35 para. 12(a)**, **Sch. 37 Pt. 11**; S.I. 2006/751, **art. 2(c)(d)(i)(ii)**; S.I. 2007/3340, **art. 2(b)**

F229 Words in s. 125(4) repealed (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 17 Pt. 2**; S.S.I. 2006/166, **art. 2(1)(d)**; and repealed (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 35 para. 12(b)**, **Sch. 37 Pt. 11**; S.I. 2006/751, **art. 2(c)(d)(i)(ii)**; S.I. 2007/3340, **art. 2(b)**

F230 S. 125(6) added (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 14**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

F231 Words in s. 125(6) substituted (E.W.) (1.1.2006) by [The Serious Organised Crime and Police Act 2005 \(Amendment\) Order 2005 \(S.I. 2005/3496\)](#), **arts. 1(1)**, 6(2)

Commencement Information

I36 S. 125 in force at 19.3.2001 for E.W. by S.I. 2001/1097, **art. 2(1)**

S. 125 in force at 1.1.2002 for S. by S.S.I. 2001/482, **art. 2(1)**

I37 S. 125 in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(k)**

^{F232}125A Form of applications

- (1) It is for the Scottish Ministers to determine the form and manner in which applications must be made for the purposes of sections 112(1)(a), 113A(1)(a), 113B(1)(a), 114(1)(a), 116(1)(a), 117(1), and 120(2).

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- (2) The Scottish Ministers may, in particular, determine that such applications may be made in electronic form (and may be signed or countersigned electronically).
- (3) The Scottish Ministers need not consider any such application unless it is made in the form and manner determined by them (or in a form and manner as close to that as circumstances permit).]

Textual Amendments

- F227** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2
- F232** S. 125A inserted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), **ss. 79(3)**, 101(2) (with **ss. 90**, 99); S.S.I. 2007/564, art. 2, sch.

Form of applications

F233 **125B**

- (1) The Secretary of State may determine the form, manner and contents of an application for the purposes of any provision of this Part.
- (2) A determination may, in particular, impose requirements about the form or manner in which an electronic application is to be signed or countersigned.]

Textual Amendments

- F227** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2
- F233** S. 125B inserted (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 97(1)**, 116(1); S.I. 2010/125, art. 2(n)

126 Interpretation of Part V.

- (1) In this Part—

“caution” means a caution given to a person in England and Wales or Northern Ireland in respect of an offence which, at the time when the caution is given, he has admitted;

“certificate” means any one or more documents issued in response to a particular application;

“chief officer” means—

- (i) a chief officer of police of a police force in England and Wales,
- (ii) a chief constable of a police force in Scotland, and
- (iii) the Chief Constable of the [^{F234}Police Service of Northern Ireland];

“government department” includes a Northern Ireland department;

“Minister of the Crown” includes a Northern Ireland department;

“police authority” means—

- (i) a police authority for an area in Great Britain or a joint police board (within the meaning of the ^{M13}Police (Scotland) Act 1967), and
- (ii) the [^{F235}Northern Ireland Policing Board];

“police force” means—

- (i) a police force in Great Britain, and

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(ii) the [^{F234}Police Service of Northern Ireland] and the [^{F234}Police Service of Northern Ireland Reserve];

“prescribed” shall be construed in accordance with section 125(1).

(2) In the application of this Part to Northern Ireland, a reference to the ^{M14}Rehabilitation of Offenders Act 1974, or to a provision of that Act, shall be construed as a reference to the ^{M15}Rehabilitation of Offenders (Northern Ireland) Order 1978 or, as the case may be, to the corresponding provision of that order.

[In the application of this Part to Northern Ireland a reference to the Safeguarding ^{F236}(3) Vulnerable Groups Act 2006, or to a provision of that Act, shall be construed as a reference to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 or, as the case maybe, to the corresponding provision of that Order.]

[In the application of this Part to Scotland references to the Secretary of State must be ^{F237}(3) construed as references to the Scottish Ministers.

(4) Subsection (3) does not apply to section 118(2A)(d) or 124A(1) and (2).]

Textual Amendments

F227 Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003](#) (asp 7), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2

F234 Words in s. 126(1) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(a)(b)**; S.R. 2001/396, art. 2, **Sch.**

F235 Words in s. 126(1) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**

F236 S. 126(3) added (N.I.) (12.10.2009) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007](#) (S.I. 2007/1351), art. 1(3), **Sch. 7 para. 3** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/304, art. 3(a)

F237 S. 126(3)(4) inserted (1.7.2005 for S., 1.7.2005 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005](#) (c. 15), **ss. 166(2)**, 178(4)(d)(8); S.S.I. 2005/358, art. 2(d); S.I. 2005/1521, art. 3(3)(c); S.I. 2007/3341, art. 2(c)

Commencement Information

I38 S. 126 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**

S. 126 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

I39 S. 126 in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(1)**

Marginal Citations

M13 1967 c. 77.

M14 1974 c. 53.

M15 S.I. 1978/1908 (N.I. 27).

^{F238}126A **Part 5: Modifications for Northern Ireland**

(1) This Part applies to Northern Ireland subject to the following modifications.

(2) Any reference to the Secretary of State, except in—

- (a) section 118(2A)(d),
- (b) section 119(1), (3), (5) and (8),
- (c) section 119B(2), (4) and (4A), and

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- (d) section 122A as it applies to a function of the Secretary of State under section 119 or 119B(2), (4) or (4A), shall be construed as a reference to the Department of Justice in Northern Ireland.
- (3) Section 119 has effect subject to the following modifications—
- (a) in subsection (1), in relation to a relevant function within subsection (8)(a) or (b), any reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland;
 - (b) in subsection (3), except in relation to a request for the purposes of the provision of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that corresponds to section 24 of the Safeguarding Vulnerable Groups Act 2006, any reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland;
 - (c) subsections (5) and (8) have effect as if any reference to the Secretary of State included a reference to the Department of Justice in Northern Ireland.
- (4) The following provisions shall not have effect—
- (a) section 113A(8);
 - (b) in section 113BC—
 - (i) in subsection (1) the words “made by statutory instrument”;
 - (ii) subsection (2);
 - (c) in section 120A—
 - (i) in subsection (7) the words “made by statutory instrument”;
 - (ii) subsection (8);
 - (d) section 125(2), (4) and (6).
- (5) In section 122 any reference to Parliament shall be construed as a reference to the Northern Ireland Assembly.
- (6) In relation to the delegation of any function of the Department of Justice, any reference in section 122A to Parliament shall be construed as a reference to the Northern Ireland Assembly.
- (7) Any power of the Department of Justice under this Part to make orders or regulations shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (8) No order shall be made by the Department of Justice under section 113A(7) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (9) Any other order or regulations made under this Part by the Department of Justice shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).
- (10) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of this Part in relation to the laying of anything before the Northern Ireland Assembly as it applies in relation to the laying of a statutory document under an enactment.]

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Textual Amendments

- F227** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2
- F238** S. 126A inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 38** (with arts. 28-31)

127 Saving: disclosure of information and records.

Nothing in sections 112 to 119 shall be taken to prejudice any power which exists apart from this Act to disclose information or to make records available.]

Textual Amendments

- F227** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2

Commencement Information

- I40** S. 127 in force at 1.3.2002 for E.W. by [S.I. 2002/413](#), **art. 2**
S. 127 in force at 25.4.2002 for S. by [S.S.I. 2002/124](#), **art. 4**
- I41** S. 127 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), **art. 2(m)**

PART VI

MISCELLANEOUS

Amendments of Police Act 1996

128 Regulations for special constables and police cadets.

- (1) In section 51 of the ^{M16}Police Act 1996 (regulations for special constables), after subsection (3) there shall be inserted—

“(3A) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, police authorities, chief officers of police or other persons, or
- (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.”.

- (2) In section 52 of that Act (regulations for police cadets) after subsection (1) there shall be inserted—

“(1A) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, police authorities, chief officers of police or other persons, or

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- (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.”.

Marginal Citations

M16 1996 c. 16.

129 Change of name or description of certain police areas.

In Schedule 1 to the Police Act 1996 (police areas for England and Wales except London)—

- (a) in the entry in the first column for “Humberside” there shall be substituted “ Humber ”;
- (b) in the entry in the second column opposite the name of the Dyfed Powys police area for “Cardiganshire” there shall be substituted “ Ceredigion ”;
- (c) for the entry in that column opposite the name of the North Wales police area there shall be substituted—

“The counties of the Isle of Anglesey, Gwynedd, Denbighshire and Flintshire and the county boroughs of Conwy and Wrexham.”;

- (d) in the entry in that column opposite the name of the South Wales police area for “Neath and Port Talbot” there shall be substituted “ Neath Port Talbot ”.

Commencement Information

I42 S. 129 partly in force; S. 129 not in force at Royal Assent see s. 135; s.129(b)(c) and (d) in force (25.6.1997) by S.I. 1997/1377, art. 2

Amendments of Police Act (Northern Ireland) 1970

F239 **130**

Textual Amendments

F239 S. 130 repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), Sch. 6 (with Sch. 5 para. 1); S.R. 1999/176, art. 3

F240 **131**

Textual Amendments

F240 S. 131 repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), Sch. 6 (with Sch. 5 para. 1); S.R. 1999/176, art. 3

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F241 **132**

Textual Amendments

F241 S. 132 repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), Sch. 6 (with Sch. 5 para. 1); S.R. 1999/176, art. 3

PROSPECTIVE

Rehabilitation of Offenders

133 Rehabilitation of Offenders.

The following provisions (which restrict the effect of the ^{M17}Rehabilitation of Offenders Act 1974 and the ^{M18}Rehabilitation of Offenders (Northern Ireland) Order 1978) shall cease to have effect—

- (a) section 189 of, and Schedule 14 to, the ^{M19}Financial Services Act 1986;
- (b) section 95 of the ^{M20}Banking Act 1987;
- (c) section 39 of the ^{M21}Osteopaths Act 1993;
- (d) section 19 of the ^{M22}National Lottery etc. Act 1993;
- (e) section 40 of the ^{M23}Chiropractors Act 1994.

Marginal Citations

M17 1974 c. 53.

M18 S.I. 1978/1908 (N.I. 27).

M19 1986 c. 60.

M20 1987 c. 22.

M21 1993 c. 21.

M22 1993 c. 39.

M23 1994 c. 17.

PART VII

GENERAL

[^{F242}**133** Meaning of “prevention” and “detection”.

Section 81(5) of the Regulation of Investigatory Powers Act 2000 (meaning of “prevention” and “detection”) shall apply for the purposes of this Act as it applies for the purposes of the provisions of that Act not contained in Chapter I of Part I.]

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Textual Amendments

F242 S. 133A inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 8(13)** (with s. 82(3)); S.I. 2000/2543, **art. 2**

134 Amendments and repeals.

- (1) Schedule 9 (minor and consequential amendments) shall have effect.
- (2) The enactments mentioned in Schedule 10 are hereby repealed to the extent specified in the third column of that Schedule.

Commencement Information

I43 S. 134 partly in force; s. 134 not in force at Royal Assent, see s. 135(1); s. 134 in force for certain purposes at: 23.7.1997 by S.I. 1997/1377, art. 4(2)(o); 1.9.1997 by S.I. 1997/1930, art. 2(2)(w); 31.10.1997 by S.I. 1997/2390, art. 2 (with arts. 3-7 (of which arts. 4-7 were revoked (1.4.1998) by S.I. 1998/354, art. 7)); 1.4.1998 by S.I. 1998/354, art. 2; 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**

135 Commencement.

- (1) The preceding provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (2) An order under this section may—
 - (a) appoint different days for different purposes or different areas, and
 - (b) make transitional provision and savings (including provision modifying this Act).
- (3) An order under this section may, in relation to Part I, II or IV make provision—
 - (a) for the transfer and apportionment of property and for the transfer, apportionment and creation of rights and liabilities;
 - (b) for the transfer of members of police forces in Great Britain, members of the ^{F243}Police Service of Northern Ireland] and other persons;
 - (c) for the Secretary of State, or any other person nominated by or in accordance with the order, to determine any matter requiring determination under or in consequence of the order;
 - (d) as to the payment of fees charged, or expenses incurred, by any person nominated to determine any matter by virtue of paragraph (c).
- (4) Any day appointed by an order under this section for the coming into force of section 93, 94 or 95 of this Act shall not be earlier than the day on which a code of practice issued under section 101 comes into operation.
- (5) A statutory instrument containing provisions made by virtue of subsection (2)(b) or (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Subordinate Legislation Made

P1 S. 135 power partly exercised: different dates appointed for specified provisions by S.I. 1997/1377

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- S. 135 power partly exercised: 22.2.1999 appointed for specified provisions by S.I. 1999/151, **art. 2**
- S. 135 power partly exercised: different dates appointed for specified provisions by S.S.I. 2001/482, **art. 2**
- S. 135 power partly exercised: 1.3.2002 appointed for specified provisions by {S.I. 2002/413}, art. 2
- P2** S. 135(1)(2)(a) power partly exercised: different dates appointed for specified provisions by {S.S.I. 2002/124}, arts. 3-5

Textual Amendments

- F243** Words in s. 135(3)(b) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(b)**; S.R. 2001/396, art. 2, **Sch.**

136 Police: co-operation on implementation.

It shall be the duty of police authorities for areas in Great Britain, and the [^{F244}Northern Ireland Policing Board], and their staff to co-operate with each other, and generally to exercise their functions, so as to facilitate the implementation of Parts I and II of this Act and any transfer of property or staff made by an order under section 135.

Textual Amendments

- F244** Words in s. 136 substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**

137 Extent.

- (1) Subject to subsections (2) to (4), this Act extends throughout the United Kingdom.
- (2) The following provisions of this Act extend to England and Wales only—
- (a) Part II;
 - ^{F245}(b)
 - ^{F246}(c)
 - ^{F247}(d)
 - (e) sections 128 and 129.
- ^{F248}(3)
- (4) The amendments in Schedules 6 and 9, and the repeals in Schedule 10, have the same extent as the enactments to which they refer.

Textual Amendments

- F245** S. 137(2)(b) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 105, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd)
- F246** S. 137(2)(c) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 105, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(dd)
- F247** S. 137(2)(d) repealed (1.8.2001) by 2001 c. 16, s. 137, **Sch. 7 Pt. 5(1)**; S.I. 2001/2223, **art. 3(j)(I)(ii)**
- F248** S. 137(3) repealed (1.4.1999) by 1998 c. 32, ss. 74(2)(3), **Sch. 6** (with Sch. 5 para. 1); S.R. 1999/176, **art. 3**

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138 Short title.

This Act may be cited as the Police Act 1997.

Status:

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Changes to legislation:

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