



# Police Act 1997

## 1997 CHAPTER 50

### PART V

#### CERTIFICATES OF CRIMINAL RECORDS, &C.

##### Modifications etc. (not altering text)

- C1** Pt. 5 (ss. 112-127) explained (prosp) by 1998 c. 29, s. 56(4)
- C2** 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)
- C3** 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)
- C4** 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)
- C5** 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)
- C6** 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)
- C7** 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)
- C8** 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)

## 112 Criminal conviction certificates.

- (1) The Secretary of State shall issue a criminal conviction certificate to any individual who—
- (a) makes an application <sup>F1</sup>..., and

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

- (b) [<sup>F2</sup>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 [<sup>F3</sup>and conditional cautions] held for the use of police forces generally as may be prescribed;
- [<sup>F4</sup>“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 <sup>M1</sup>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

- F1** 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)
- F2** 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)**
- F3** 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)
- F4** 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

- I1** S. 112 not in force at Royal Assent, see s. 135(1)
- I2** S. 112 in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), **art. 2(a)**

#### Marginal Citations

- M1** 1974 c. 53.

### <sup>F5</sup>113 Criminal record certificates.

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#### Textual Amendments

- F5** 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)

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

## [<sup>F6</sup>113A Criminal record certificates

- (1) The Secretary of State must issue a criminal record certificate to any individual who—
  - (a) makes an application <sup>F7</sup>..., 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 <sup>F8</sup>(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 [<sup>F9</sup>the registered person who countersigned][<sup>F9</sup>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 [<sup>F10</sup>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 of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act; [<sup>F11</sup>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

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(b) a caution [<sup>F12</sup>, including a caution that is spent for the purposes of Schedule 2 to that Act].

[ The Secretary of State may by order amend the definitions of “central records” and <sup>F13</sup>(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.]

[ For the purposes of this Part a person acts as the registered person in relation to an <sup>F14</sup>(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).]

#### Textual Amendments

- F6** 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](#)
- F7** 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\(n\)\(u\)](#)
- F8** 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\(2\)](#)
- F9** 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\(3\)](#)
- F10** 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\(1\)\(b\)](#)
- F11** 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\(1\)\(b\)](#)
- F12** 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\(1\)\(b\)](#)
- F13** 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](#)
- F14** 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\(4\)](#)

#### Modifications etc. (not altering text)

- C9** 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

- I3** S. 113A in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), [art. 2\(b\)](#)

*Status: Point in time view as at 18/03/2010.*

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### **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 <sup>F15</sup>..., 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 [<sup>F16</sup>for the purposes of an exempted question asked] for a prescribed purpose.

[ But an application for an enhanced criminal record certificate need not be <sup>F17</sup>(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
  - (c) can, without harming those interests, be disclosed to the registered person.

[ The Scottish Ministers must pay to such body as may be prescribed such fee as they <sup>F18</sup>(5A) 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 [<sup>F19</sup>the registered person who countersigned][<sup>F19</sup>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).

*Status: Point in time view as at 18/03/2010.*

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- (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—
- [<sup>F20</sup>(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);
- (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
- <sup>F21</sup>(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).]

*Status: Point in time view as at 18/03/2010.*

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### Textual Amendments

- F6** 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](#)
- F15** 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\(n\)\(u\)](#)
- F16** 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.](#)
- F17** 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\(2\)](#)
- F18** 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.](#)
- F19** 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\(3\)](#)
- F20** 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\(1\)](#)
- F21** 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\(4\)](#)

### Modifications etc. (not altering text)

- C10** 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

- I4** S. 113B in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), [art. 2\(c\)](#)

## **Suitability information relating to children**

**F22** **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—
- whether the applicant is barred from regulated activity relating to children;
  - if the applicant is barred from such activity, such details as are prescribed of the circumstances in which he became barred;
  - whether the applicant is subject to monitoring in relation to regulated activity relating to children;
  - whether the [<sup>F23</sup>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.
- [<sup>F24</sup>(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).]

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

- (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

- F6** 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](#)
- F22** 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.](#)
- F23** Words in s. 113BA substituted (12.11.2009) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 81\(2\)\(3\)\(h\)](#), [116\(5\)\(a\)](#)
- F24** 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)

- C11** 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](#)
- C12** 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](#)

### 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 [<sup>F25</sup>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.



*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

(4) “The 2006 Act” means the Safeguarding Vulnerable Groups Act 2006.

#### Textual Amendments

- F6** 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
- F22** 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.
- F25** 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)

- C13** 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**
- C14** 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—
- amend section 113BA for the purpose of altering the meaning of suitability information relating to children;
  - 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

- F6** 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
- F22** 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.

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

### 113C Criminal record certificates: suitability relating to children

- [<sup>F26</sup>][<sup>F27</sup>](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 [<sup>F28</sup>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 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;

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*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

- (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

- F6** 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](#)
- F26** 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\(a\)](#)
- F27** 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](#))
- F28** 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)

- C15** 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](#))
- C16** 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

- I5** S. 113C in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), [art. 2\(d\)](#)

### 113D Criminal record certificates: suitability relating to adults

<sup>F26</sup>[<sup>F27</sup>(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

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*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

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

- F6** 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
- F26** 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)
- F27** 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)

- C17** 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)
- C18** 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

- I6** 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

[<sup>F26</sup>[<sup>F27</sup>(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

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- (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

- F6** 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
- F26** 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)
- F27** 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)

- C19** 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**

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*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

### 113F Criminal record certificates: supplementary

[<sup>F26</sup>[<sup>F27</sup>(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—

[<sup>F29</sup>(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 <sup>F30</sup>... 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 <sup>F31</sup>... 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);
- (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.]]]

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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

- F6** 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](#)
- F26** 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\(a\)](#)
- F27** 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](#))
- F29** 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](#)
- F30** 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](#))
- F31** 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

- I7** 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 <sup>F32</sup>..., and
  - (b) [<sup>F33</sup>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) [<sup>F34</sup>[<sup>F35</sup>Sections 113A(3) to (6) and 113C to 113F]] [<sup>F35</sup>Section 113A(3) to (6)] shall apply in relation to this section with any necessary modifications.

### Textual Amendments

- F32** 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\(n\)\(u\)](#)
- F33** 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\(3\)\(b\)](#)
- F34** 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\(e\)](#)
- F35** 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.](#)

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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**

- I8** 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**
- I9** S. 114 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(g)**

<sup>F36</sup> **115 Enhanced criminal record certificates. E+W+N.I.**

**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**

- F36** 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)

<sup>F36</sup> [<sup>F111</sup> **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**

- F36** 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)
- F111** 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 <sup>F37</sup>..., and
  - (b) [<sup>F38</sup>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



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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 [<sup>F39</sup>to which subsection (3) or (4) of section 115 applies][<sup>F39</sup>of such description as may be prescribed].
- (3) [<sup>F40</sup>Sections 113B(3) to (11) and [<sup>F41</sup>113C to 113F][<sup>F41</sup>113BA to 113BC]] shall apply in relation to this section with any necessary modifications.

#### Textual Amendments

- F37** 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)**
- F38** 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)**
- F39** 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**
- F40** 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)**
- F41** 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)

- C20** 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

- I10** 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**
- I11** 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 [<sup>F42</sup>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.
- [<sup>F43</sup>(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).

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- (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

- F42** 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.
- F43** 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

- I12** 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](#)
- I13** 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 [<sup>F44</sup>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.
- [<sup>F45</sup>(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 [<sup>F46</sup>United Kingdom Passport Agency][<sup>F46</sup>Identity and Passport Service];
  - (b) by the Driver and Vehicle Licensing Agency;
  - (c) by Driver and Vehicle Licensing Northern Ireland;
  - (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.]

[<sup>F47</sup>(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.]

[<sup>F48</sup>(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.

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### Textual Amendments

- F44** 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)
- F45** 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)
- F46** 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.
- F47** 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.
- F48** 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

- I14** 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*
- I15** 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 [<sup>F49</sup>for the purposes of an application [<sup>F50</sup>(whether for a certificate or for registration)] under this Part.] [<sup>F49</sup>for the purpose of enabling him to carry out [<sup>F51</sup>his functions under this Part in relation to—
- (b) the determination of whether a person should continue to be a registered person.]  
[<sup>F51</sup>a relevant function]]
- [<sup>F52</sup>(1A) Any person who keeps a list mentioned in [<sup>F53</sup>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
- (b) the determination of whether a person should continue to be a registered person.]
- [<sup>F54</sup>(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 [<sup>F55</sup>113B] or 116 [<sup>F56</sup>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, <sup>F57</sup>... [<sup>F58</sup>such fee as he thinks appropriate] for information provided in accordance with [<sup>F59</sup>subsection (2)] [<sup>F59</sup>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 [<sup>F49</sup>for the purposes of

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an application under this Part.]<sup>F49</sup> 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.

[<sup>F60</sup>(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.]

[<sup>F61</sup>(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

- F49** 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)
- F50** 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.
- F51** 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.
- F52** 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)
- F53** 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)
- F54** 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.
- F55** 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)
- F56** 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.
- F57** 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.
- F58** 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)

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- F59** 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)
- F60** 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)
- F61** 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)

- C21** 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

- I16** 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](#)
- I17** S. 119 in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), [art. 2\(k\)](#)

### [<sup>F62</sup>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 [<sup>F63</sup>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
  - (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

- F62** 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](#)
- F63** 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)

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## [<sup>F64</sup>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.
- (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.
- (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

**F64** 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)

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

## 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.

<sup>F65</sup>(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.]

<sup>F66</sup>(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 [<sup>F67</sup>countersign][<sup>F67</sup>act as the registered person in relation to] applications under section [<sup>F68</sup>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 [<sup>F69</sup>113A].

### Textual Amendments

- F65** 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)
- F66** 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)
- F67** 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](#)
- F68** 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)
- F69** 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)

- C22** 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

- I18** 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](#)

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

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](#)

**119** S. 120 in force at 3.12.2007 for N.I. by [S.I. 2007/3342, art. 2\(a\)](#)

## <sup>F111</sup>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 [<sup>F122</sup>section 120A and] regulations under subsection (3), the Secretary of State shall include in the register any person who applies to him <sup>F123</sup>... 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,
    - [ the nomination by—
    - <sup>F124</sup>(aa) (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;]
  - (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 [<sup>F125</sup>113A 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 [<sup>F68</sup>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 [<sup>F69</sup>113A].]



*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

### 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

- F68** 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)
- F69** 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)
- F111** 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
- F122** 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
- F123** 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.
- F124** 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
- F125** 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

- I39** 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](#)

## [<sup>F70</sup>120Z] 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 [<sup>F71</sup>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—

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

- (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 [<sup>F72</sup>he countersigns][<sup>F72</sup>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 [<sup>F73</sup>113A or 113B] to be transmitted by electronic means to the Secretary of State by the [<sup>F74</sup>registered person who countersigns it][<sup>F74</sup>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

- F70** 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)
- F71** 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)**
- F72** 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)**
- F73** 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)
- F74** 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)**

#### Commencement Information

- I20** S. 120ZA in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(b)**

### [<sup>F75</sup>120A Refusal and cancellation of registration [<sup>F76</sup>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.

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

- (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 <sup>F77</sup>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 <sup>F78</sup>the countersigning of applications by a particular applicant for registration or by a particular registered person]<sup>F78</sup>a particular applicant for registration, or a particular registered person, acting as the registered person in relation to applications under this Part];
- 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 <sup>F79</sup>the countersigning of]<sup>F79</sup>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 <sup>F80</sup>113A].
- [ For the purposes of this section references to a police force include any body <sup>F81</sup>(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

- F75** 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)
- F76** 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)
- F77** 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)
- F78** 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)
- F79** 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)

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

**F80** 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)

**F81** 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)

**C23** 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](#)

**C24** 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](#)

**C25** 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

**I21** S. 120A in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(c\)](#)

### <sup>F111</sup><sub>F126</sub> **Refusal and cancellation of registration: Scotland** **S**

- 120A**
- (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 <sup>F127</sup>113A);
    - (b) whether that person is included in any list mentioned in section <sup>F128</sup>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.

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

- (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 [<sup>F129</sup>such fee as they consider appropriate].
- [ For the purposes of this section references to a police force include any body
- <sup>F130</sup>(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
- <sup>F131</sup>(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

- F111** 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
- F126** 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
- F127** 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)
- F128** 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)
- F129** 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)
- F130** 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)**
- F131** 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)

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

#### Modifications etc. (not altering text)

- C24** 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**

### <sup>F82</sup>**120A 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 <sup>F83</sup>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 <sup>F84</sup>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, <sup>F85</sup>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—
  - (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

- F82** 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)
- F83** 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)**
- F84** 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)**
- F85** 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

- I22** 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

*Status: Point in time view as at 18/03/2010.*

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- (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 mental impairment, of <sup>F86</sup>countersigning<sup>F86</sup> 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

**F82** 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)

**F86** 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

**I23** 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.

<sup>F87</sup>In Scotland a constable engaged on central service (within the meaning of section 38 of the <sup>M2</sup>Police (Scotland) Act 1967) may perform functions under this Part (other than functions <sup>F88</sup> 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

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*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

functions by virtue of this section as the subsection applies in respect of the Secretary of State.]

#### Textual Amendments

**F87** 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.

**F88** 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

**I24** 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

**M2** 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 <sup>F89</sup>, or the discharge of any function by,] registered persons under this Part.
- (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) <sup>F90</sup>The Secretary of State may refuse to issue a certificate under section <sup>F91</sup>113A or 113B] if he believes that the registered person who countersigned the application]—  
<sup>F90</sup>Subsection (3A) applies if the Secretary of State thinks that the <sup>F92</sup>registered person who countersigned]]<sup>F92</sup>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) <sup>F93</sup>countersigned]]<sup>F93</sup>acted as the registered person] at the request of a body which, or individual who, has failed to comply with the code of practice.

<sup>F94</sup>(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.]

<sup>F95</sup>(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 <sup>F96</sup>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]



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#### Textual Amendments

- F89** 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.**
- F90** 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)**
- F91** 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)**
- F92** 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)**
- F93** 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)**
- F94** 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)**
- F95** 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.**
- F96** 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](#)

#### Commencement Information

- I25** 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**
- I26** S. 122 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), **art. 2(f)**

### [<sup>F97</sup>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

- F97** 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

- I27** S. 122A in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), **art. 2(g)**

*Status: Point in time view as at 18/03/2010.*

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## [<sup>F98</sup>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.]

### Textual Amendments

- F98** 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

- I28** 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
- I29** S. 123 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), art. 2(h)

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

## 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 [F<sup>99</sup>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 [F<sup>100</sup>countersigned][F<sup>100</sup>acted as the registered person in relation to] the application, or
  - (c) to an individual at whose request the registered body [F<sup>100</sup>countersigned][F<sup>100</sup>acted as the registered person in relation to] the relevant application.
- (2) Where information is provided under section [F<sup>101</sup>113A or 113B] following an application [F<sup>102</sup>countersigned][F<sup>102</sup>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 [F<sup>103</sup>113A or 113B] following an application [F<sup>104</sup>countersigned by or at the request of an individual][F<sup>104</sup>in relation to 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 [F<sup>105</sup>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 [F<sup>106</sup>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 [F<sup>107</sup>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 [F<sup>108</sup>113A]) of a kind specified in regulations made by the Secretary of State, or

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- (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

- F99** 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)
- F100** 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)**
- F101** 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)
- F102** 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)**
- F103** 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)
- F104** 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)**
- F105** 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)
- F106** 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)
- F107** 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)
- F108** 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

- I30** 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**
- I31** S. 124 in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(i)**

#### [<sup>F109</sup>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

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- (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.
- (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
- <sup>F110</sup>(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

- F109** 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)
- F110** 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

- I32** S. 124A in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(j\)](#)

### [<sup>F111</sup>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.

*Status: Point in time view as at 18/03/2010.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 19 June 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)*

- (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.]

#### 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

**F111** 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

### [<sup>F111</sup>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

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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.]

#### Textual Amendments

**F111** 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.
- <sup>F112</sup>(3) . . . . .
- (4) A statutory instrument <sup>F113</sup>... 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.
- <sup>F114</sup>(6) If the power mentioned in subsection (1) is exercised by the Scottish Ministers, the reference in [<sup>F115</sup>subsection (3)][<sup>F115</sup>subsection (4)] to each House of Parliament must be construed as a reference to the Scottish Parliament.]

#### Textual Amendments

**F112** 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)**

**F113** 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)**

**F114** 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)

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**F115** 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

**I33** 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\(1\)](#)

**I34** S. 125 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(k\)](#)

### [<sup>F116</sup>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).
- (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

**F116** 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.

### [<sup>F117</sup>125B] Form of applications

- (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

**F117** 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



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- (iii) the Chief Constable of the [<sup>F118</sup>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 <sup>M3</sup>Police (Scotland) Act 1967), and
- (ii) the [<sup>F119</sup>Northern Ireland Policing Board];  
“police force” means—
- (i) a police force in Great Britain, and
- (ii) the [<sup>F118</sup>Police Service of Northern Ireland] and the [<sup>F118</sup>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 <sup>M4</sup>Rehabilitation of Offenders Act 1974, or to a provision of that Act, shall be construed as a reference to the <sup>M5</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978 or, as the case may be, to the corresponding provision of that order.
- [<sup>F120</sup>(3) In the application of this Part to Northern Ireland a reference to the Safeguarding 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.]
- [<sup>F121</sup>(3) In the application of this Part to Scotland references to the Secretary of State must be 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

- F118** 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.**
- F119** 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.**
- F120** 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)
- F121** 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

- I35** 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**
- I36** S. 126 in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(I)**

#### Marginal Citations

- M3** 1967 c. 77.  
**M4** 1974 c. 53.  
**M5** S.I. 1978/1908 (N.I. 27).

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## **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.

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### **Commencement Information**

- I37** 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**
- I38** S. 127 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), **art. 2(m)**

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