

CRIMINAL JUSTICE AND POLICE ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Provisions for Combatting Crime and Disorder.

Chapter 3: Other provisions for combatting crime

Local child curfew schemes

Section 45: Addresses of directors and secretaries of companies

140. This section will provide for the Companies Act 1985 to be amended by the insertion of new sections (ss723B - 723F).
141. *Section 723B* allows a present or prospective director or company secretary or permanent representative to apply to the Secretary of State for Trade and Industry for a Confidentiality Order, which will have the effect of disapplying the requirement that his usual residential address be available for inspection on the public record. The application must be accompanied by a service address which will appear on the public record in place of the residential address. The intention is to offer protection for those who may be at serious risk of violence or intimidation if their home address becomes public knowledge. The Secretary of State will determine whether the grounds for such an application have been met. The section enables further provision to be made about Confidentiality Orders including provision for the payment of fees on the making of an application to fund the cost of setting up and maintaining the system of Confidentiality Orders, the manner in which applications for such orders are to be made, including the information to be given by applicants and the procedure for determining how the decision on the application is to be reached, and provision for the period for which Confidentiality Orders are to remain in force and the grounds for revoking such orders.
142. *Section 723C* sets out the effect of a Confidentiality Order, which is to remove the right of public access to the usual residential address of the directors, etc concerned which is to be held as a confidential record by Companies House, and to require the company's Annual Return to show the service address rather than the usual home address of the director, etc. The section provides for Regulations to make provision for similar protection for usual residential addresses filed on the company's own register of directors. It also provides for Regulations to make provision for the inspection of the confidential records and about applications for access. The section also enables provision to be made as to the conditions governing the choice of service addresses. It is anticipated that certain public bodies such as law enforcement agencies will have automatic access rights to the private address under the regulations; the regulations may cover the means by which those not afforded automatic rights will be able to apply to be given access by the court.
143. *Section 723D*. This section provides for the construction of the terms used in sections 723B and 723C. Terms defined include "relevant company", "permanent representative of a company", "confidential records" and "confidentiality order". It also enables the

*These notes refer to the Criminal Justice and Police Act
2001 (c.16) which received Royal Assent on 11th May 2001*

court - which may, if the regulations provide, approve applications for access to the Confidential Record - to be identified in the regulations. The section also enables regulations to provide that documents delivered after the coming into force of a Confidentiality Order can be treated as having been delivered at the time when they were required by law to be delivered. This seeks to ensure that companies will not delay presenting information that they are required to do by law in order to take advantage of the possible granting of a Confidentiality Order. The section also makes clear that it is not necessary, in order to make an application for a Confidentiality Order for the company in which the applicant seeks to become a director, etc, to have been incorporated or established a branch at the time of the application.

144. *Section 723E(1)* enables regulations to be made providing for it to be an offence for a person to give false information knowingly or recklessly when applying for a Confidentiality Order or for providing confidential information in breach of regulations made under section 723C. *Section 723E(2)* sets out the penalties that might be imposed by regulations for breach of the offences described in subsection (1).
145. *Section 723F*. This section makes provision as to how the regulation making powers conferred by sections 723B to 723E are to be exercised. Any regulations made under those powers are to be subject to the affirmative procedure and cannot be made unless a draft of the instrument containing them has been laid before Parliament and approved by resolution of each House. The section also makes consequential amendments to sections 288 and 709 of the Companies Act 1985.