#### STATUTORY INSTRUMENTS

# 2002 No. 233

# **POLICE**

# The Police Act 1997 (Criminal Records) Regulations 2002

Made - - - - 7th February 2002

Laid before Parliament 7th February 2002

Coming into force - - 1st March 2002

The Secretary of State, in exercise of the powers conferred on him by the provisions which are specified in Schedule 1 to these Regulations, hereby makes the following Regulations:

# Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Police Act 1997 (Criminal Records) Regulations 2002 and shall come into force on 1st March 2002.
  - (2) These Regulations extend to England and Wales.

#### Interpretation

2. In these Regulations—

"the Act" means the Police Act 1997 MI;

"reprimand" means a reprimand given to a child or young person in accordance with section 65 of the Crime and Disorder Act 1998 M2;

"volunteer" means a person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative;

"warning" means a warning given to a child or young person in accordance with section 65 of the Crime and Disorder Act 1998.

# Marginal Citations M1 1997 c. 50.

**M2** 1998 c. 37.

#### **Application form**

**3.** The form set out in Schedule 2 to these Regulations, or a form to the like effect, is hereby prescribed for the purposes of sections 113(1)(a) (criminal record certificate), 114(1)(a) (criminal record certificate: Crown employment), 115(1)(a) (enhanced criminal record certificate) and 116(1) (a) (enhanced criminal record certificate: judicial appointment and Crown employment) of the Act.

# [F1Fees for criminal record certificates

**4.** The fee payable in relation to an application for the issue of a criminal record certificate is hereby prescribed as [F2£29] save that no fee is payable in relation to an application made by a volunteer.

#### **Textual Amendments**

- F1 Regs. 4, 4A substituted for reg. 4 (1.7.2003) by The Police Act 1997 (Criminal Records) (Amendment No. 4) Regulations 2003 (S.I. 2003/1418), regs. 1, 2
- **F2** Word in reg. 4 substituted (1.4.2005) by The Police Act 1997 (Criminal Records) (Amendment) Regulations 2005 (S.I. 2005/347), regs. 1(2), **3(1)**

#### Fees for enhanced criminal record certificates

**4A.** The fee payable in relation to an application for the issue of an enhanced criminal record certificate is hereby prescribed as [F3£34] save that no fee is payable in relation to an application made by a volunteer.]

#### **Textual Amendments**

- F1 Regs. 4, 4A substituted for reg. 4 (1.7.2003) by The Police Act 1997 (Criminal Records) (Amendment No. 4) Regulations 2003 (S.I. 2003/1418), regs. 1, 2
- **F3** Word in reg. 4A substituted (1.4.2005) by The Police Act 1997 (Criminal Records) (Amendment) Regulations 2005 (S.I. 2005/347), regs. 1(2), **3(2)**

#### Relevant matters: prescribed details

- **5.** The following details of a relevant matter for the purposes of sections 113(3)(a) and 115(6) (a)(i) of the Act (including those provisions as applied by sections 114(3) and 116(3), respectively) are hereby prescribed—
  - (a) in the case of a conviction within the meaning of the Rehabilitation of Offenders Act 1974 M3, including a spent conviction—
    - (i) the date of conviction;
    - (ii) the convicting court;
    - (iii) the offence; and
    - (iv) the method of disposal for the offence including details of any order made under Part 2 of the Criminal Justice and Court Services Act 2000 M4,
  - (b) in the case of a caution, reprimand or warning—
    - (i) the date of caution, reprimand or warning;
    - (ii) the place where the caution, reprimand or warning was issued; and

Changes to legislation: There are currently no known outstanding effects for the The Police Act 1997 (Criminal Records) Regulations 2002. (See end of Document for details)

(iii) the offence which the person issued with a caution, reprimand or warning had admitted.

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Marginal Citations
M3 1974 c. 53.
M4 2000 c. 43.
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# List kept under section 1 of the Protection of Children Act 1999: prescribed details

- **6.**—(1) In the case of an applicant included in the list kept under section 1 of the Protection of Children Act 1999 <sup>M5</sup> the following details are hereby prescribed for the purposes of sections 113(3A)(b) and 115(6A)(b) of the Act <sup>M6</sup>—
  - [F4(a) the fact that he is included in the list;]
    - (b) whether the person is disqualified from working with children for the purposes of section 35 of the Criminal Justice and Court Services Act 2000;
    - (c) whether any appeal against inclusion in the list is pending;
    - (d) whether the inclusion in the list is provisional; and
    - (e) whether or not [F5he] may not be employed or, as the case may be, should cease to be employed in a childcare position with a childcare organisation in accordance with section 7 of the Protection of Children Act 1999.
- (2) In this regulation "childcare position" and "childcare organisation" have the same meanings as in section 12 of the Protection of Children Act 1999 M7.

#### **Textual Amendments**

- F4 Reg. 6(1)(a) substituted (31.3.2003) by The Police Act 1997 (Criminal Records) (Amendment No. 3) Regulations 2003 (S.I. 2003/520), regs. 1(2), 2(2)
- **F5** Word in reg. 6(1)(e) substituted (31.3.2003) by The Police Act 1997 (Criminal Records) (Amendment No. 3) Regulations 2003 (S.I. 2003/520), regs. 1(2), **2(3)**

#### **Marginal Citations**

**M5** 1999 c. 14.

- M6 Sections 113(3A) and 115(6A) were inserted by section 8(1), (2) of the Protection of Children Act 1999 respectively. Section 113(3A) was amended by sections 102(1), 104(1), (2)(a), 116 and Schedule 4, paragraph 25(1) of the Care Standards Act 2000 (c. 14). Section 115(6A) was amended by sections 102(2), 104(1), (3)(b), 116 and Schedule 4, paragraph 25(b) of the Care Standards Act 2000.
- M7 Section 12 of the Protection of Children Act 1999 was amended by section 74 and Schedule 7, Part II, paragraphs 154 and 158 of the Criminal Justice and Court Services Act 2000 (c. 43).

# [F6Directions made under section 142 of the Education Act 2002: prescribed details]

- 7. [F6In the case of an applicant subject to a direction made under section 142 of the Education Act 2002 the following details are hereby prescribed for the purposes of sections 113(3A)(d) and 115(6A)(d) of the Act—
  - (a) the fact that he is subject to such a direction;
  - (b) the date the direction was given;

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- (c) details of any prohibition or restriction on his employment; and
- (d) the grounds on which the direction was made, and, where the grounds are misconduct, details of the misconduct.

#### **Textual Amendments**

**F6** Reg. 7 substituted (31.3.2003 for W., 1.6.2003 for E.) by The Police Act 1997 (Criminal Records) (Amendment No. 3) Regulations 2003 (S.I. 2003/520), regs. 1(3), **3** 

# [F7List kept under section 81 of the Care Standards Act 2000: prescribed details

- **8.**—(1) In the case of an applicant included in the list kept under section 81 of the Care Standards Act 2000 the following details are hereby prescribed for the purposes of sections 113(3C)(b) and 115(6B)(b) of the Act—
  - (a) the fact that he is included in the list;
  - (b) whether the inclusion in the list is provisional;
  - (c) whether any appeal against inclusion in the list is pending; and
  - (d) the fact that the person included in the list is prohibited from working in a care position.
- (2) In this regulation "care position" has the same meaning as in Part VII of the Care Standards Act 2000.]

#### **Textual Amendments**

F7 Reg. 8 substituted (26.7.2004) by The Police Act 1997 (Criminal Records) (Amendment) (No. 2) Regulations 2004 (S.I. 2004/1759), regs. 1(1), 2

#### Central records: prescribed details

**9.** Information in any form relating to convictions, cautions, reprimands and warnings on a names index held by the Police Information Technology Organisation for the use of constables is hereby prescribed as "central records" for the purposes of section 113(5) of the Act (including that provision as applied by sections 114(3), 115(6) and 116(3)).

# Enhanced criminal record certificates: relevant police forces

- **10.** For the purposes of an application for an enhanced criminal record certificate "relevant police force" means—
  - (a) the police force maintained for the police area in England and Wales or Scotland within which the applicant resides or has resided within the period of 5 years preceding the date of the application;
  - (b) the Police Service of Northern Ireland if the applicant resides or has resided within the period of 5 years preceding the date of the application within Northern Ireland;
  - (c) such other police force as the chief officer of police of a police force identified as a relevant police force by virtue of paragraphs (a) or (b) above determines;
  - (d) any police force that the Secretary of State determines to be relevant to the application.

#### **Evidence of identity: fingerprinting**

- 11.—(1) Where the Secretary of State requires an application under Part V of the Act to be supported by evidence of identity in the form of fingerprints then the place at which they are to be taken is to be determined in accordance with paragraphs (2) and (3) below and he shall notify the applicant—
  - (a) of his requirement; and
  - (b) of the fact that any fingerprints taken from the applicant and provided to the Secretary of State in pursuance of the requirement may be the subject of a speculative search.
- (2) Any applicant in receipt of such notification shall notify the Secretary of State of whether he wishes to proceed with his application and, if so, notify the Secretary of State—
  - (a) that he consents to the taking of his fingerprints; and
  - (b) of the police station ("the specified police station") that he proposes to attend at for the purposes of having his fingerprints taken.
- (3) The Secretary of State may require the police officer in charge of the specified police station, or any other police station he reasonably determines, to take the applicant's fingerprints at the specified station at such reasonable time as the officer may direct and notify to the applicant.
- (4) Fingerprints taken in connection with an application under Part V of the Act must be destroyed as soon as is practicable after the identity of the applicant is established to the satisfaction of the Secretary of State.
  - (5) If fingerprints are destroyed—
    - (a) any copies of the fingerprints shall also be destroyed; and
    - (b) any chief officer of police controlling access to computer data relating to the fingerprints shall make access to the data impossible, as soon as it is practicable to do so.
- (6) Any applicant who asks to be allowed to witness the destruction of his fingerprints or copies of them shall have a right to witness it.
  - (7) If—
    - (a) paragraph (5)(b) above falls to be complied with; and
    - (b) the applicant to whose fingerprints the data relates asks for a certificate that it has been complied with,

such a certificate shall be issued to him, not later than the end of the period of three months beginning with the day on which he asks for it, by the responsible chief officer of police or a person authorised by him or on his behalf for the purposes of this regulation.

- (8) In the case of an applicant under the age of 18 years the consent of the applicant's parent or guardian to the taking of the applicant's fingerprints is also required.
  - (9) In this regulation—

"speculative search" has the same meaning as in Part V of the Police and Criminal Evidence Act  $1984^{M8}$ ; and

"responsible chief officer of police" means the chief officer of police in whose area the computer data were put on to the computer.

#### **Marginal Citations**

**M8** 1984 c. 60.

Changes to legislation: There are currently no known outstanding effects for the The Police Act 1997 (Criminal Records) Regulations 2002. (See end of Document for details)

# Fees payable to police authorities for information provided to the Secretary of State

**12.** The Secretary of State shall pay to the appropriate police authority the fee shown in Schedule 3 to these Regulations in respect of each request he makes to the chief officer of a police force for the provision of information under [F8 section 115, 116 or 120A(4)] of the Act.

#### **Textual Amendments**

F8 Words in reg. 12 substituted (9.3.2004) by The Police Act 1997 (Criminal Records) (Amendment) Regulations 2004 (S.I. 2004/367), regs. 1(2), 3

Home Office Minister of State

Changes to legislation: There are currently no known outstanding effects for the The Police Act 1997 (Criminal Records) Regulations 2002. (See end of Document for details)

#### SCHEDULE 1

#### **Enabling Powers**

These Regulations are made under the following provisions of the Police Act 1997—

- (a) sections 113(1)(b); 114(1)(b); 115(1)(b) and (10); 116(1)(b); 118(3) and 125(5); and
- (b) having regard to the meaning of "prescribed" in sections 113(1)(a), (3)(a), (3A)(b) and (5); 114(1)(a); 115(1)(a), (6)(a)(i) and (6A)(b); 116(1)(a); 118(2)(a) and 119(3).

# [F9SCHEDULE 2]

# **Textual Amendments**

F9 Sch. 2 omitted in part (17.2.2003) by virtue of The Police Act 1997 (Criminal Records)(Amendment No. 2) Regulations 2003 (S.I. 2003/137), regs. 1, 3

# Disclosure Application Form



Form Ref

Disclosure Type

Please complete sections A-H in BLOCK CAPITALS; it is important that you use BLACK INK The Disclosure Application Form Guidance Notes will help you complete this form, however, if you need additional help please contact the application line on 0870 90 90 844

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Changes to legislation: There are currently no known outstanding effects for the The Police Act 1997 (Criminal Records) Regulations 2002. (See end of Document for details)

# SECTIONS X-Z MUST NOT BE COMPLETED BY APPLICANT

Х	Evidence of identity seen by the (Please refer to the Code of employer/volunteering organisation/Registered Body Practice and your guidance notes)
1/2	Passport number Date of DD DATE OF DAT
3/4	Nationality Issue date
5/6	Driving licence number Date of birth
7/8	Licence type Paper Photocard Licence valid from
9	Country of Issue UK Other
10/11	Birth Certificate Date of Birth  Issue date
12	Country of issue UK Other
13/14	Marriage Certificate P45 or P60 National Insurance number
15	Current address details checked against documentation Yes
16	Evidence seen and checked by Name
Y	Statement by Registered Person (Please refer to the Code of Practice and your guidance notes)
1/2	Registered Body Countersignatory number
3/4	The position involves working with The position involves regular contact children with vulnerable adults
5	The category code for this position is
6/7	The level of criminal record check Standard Enhanced required in respect of this application is
8	Registered Body to pay On Payment Volunteer-no account enclosed payment due
9	Declaration by Registered Person Learly that this application is required for the purpose of asking an exempted question under the terms of The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and that the checks requested are in accordance with the relevant legislation, as specified in the guidance notes. I confirm that the information that I have provided in support of this application is complete and true and understand that knowingly to make a false statement for this purpose is a criminal offence.  Signature of Registered Person (please sign in the box provided)
10	Date of Countersignature
	Official use only
1 2	Correct payment received Cheque Postal order  Examined by:

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# [F10SCHEDULE 3

# Fees payable to police authorities

# **Textual Amendments**

**F10** Sch. 3 substituted (25.3.2005) by The Police Act 1997 (Criminal Records) (Amendment) Regulations 2005 (S.I. 2005/347), regs. 1(2), 2, **Sch.** 

Police Force	Fee per request	
Avon & Somerset	£6.09	
Bedfordshire	£5.62	
Cambridgeshire	£5.36	
Cheshire	£6.45	
City of London	£3.99	
Cleveland	£6.68	
Cumbria	£6.17	
Derbyshire	£5.79	
Devon & Cornwall	£4.27	
Dorset	£3.65	
Durham	£3.58	
Dyfed-Powys	£2.80	
Essex	£6.98	
Gloucestershire	£1.09	
Greater Manchester	£4.11	
Gwent	£6.81	
Hampshire	£1.13	
Hertfordshire	£8.97	
Humberside	£4.61	
Kent	£7.30	
Lancashire	£3.63	
Leicestershire	£3.66	
Lincolnshire	£1.51	
Merseyside	£3.03	
Metropolitan	£8.93	
Norfolk	£5.14	
North Wales	£8.35	
North Yorkshire	£3.35	

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Police Force	Fee per request	
Northamptonshire	£7.15	
Northumbria	£2.18	
Nottinghamshire	£3.31	
South Wales	£2.48	
South Yorkshire	£0.94	
Staffordshire	£3.38	
Suffolk	£3.05	
Surrey	£4.73	
Sussex	£1.82	
Thames Valley	£2.71	
Warwickshire	£2.64	
West Mercia	£3.10	
West Midlands	£1.85	
West Yorkshire	£2.59	
Wiltshire	£4.14	
Police Service of Northern Ireland	£6.73	
Central Scotland	£6.06	
Dumfries & Galloway	£6.06	
Fife	£6.06	
Grampian	£6.06	
Lothian & Borders	£6.06	
Northern	£6.06	
Strathclyde	£6.06	
Tayside	£6.06]	

#### **EXPLANATORY NOTE**

(This note is not part of the Regulations)

These Regulations make detailed provisions in relation to applications for criminal record certificates and enhanced criminal record certificates under Part V of the Police Act 1997. Regulation 2 defines terms used in the Regulations.

Regulation 3 requires an application for the issue of a criminal record certificate or an enhanced criminal record certificate to be made on the form, or one to like effect, set out in Schedule 2 to

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the Regulations. Regulation 4 specifies the fee for such an application as £12 save that no fee is payable when the applicant is a volunteer as defined in regulation 2.

Regulation 5 specifies the details of convictions and cautions, reprimands and warnings which appear on criminal record certificates and enhanced criminal record certificates.

Regulations 6, 7 and 8 specify the details of information drawn from lists kept under section 1 of the Protection of Children Act 1999, section 218(6) of the Education Reform Act 1988 and sections 470 and 471 of the Education Act 1996 respectively, which will appear on criminal record certificates and enhanced criminal record certificates.

Regulation 9 specifies the sources of information comprising central records of convictions, cautions, reprimands and warnings. Regulation 10 defines relevant police force for the purposes of section 115 of the Police Act 1997.

Regulation 11 makes provisions in relation to the taking of fingerprints from applicants where the Secretary of State requires them for the purposes of ascertaining the identity of an applicant. Regulation 12 specifies the fees to be paid to police authorities who maintain police forces that have been requested to supply information in relation to an application for an enhanced criminal record certificate.

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# **Changes to legislation:**

There are currently no known outstanding effects for the The Police Act 1997 (Criminal Records) Regulations 2002.