

**EXPLANATORY MEMORANDUM TO**  
**THE POLICE ACT 1997 (CRIMINAL RECORDS) (AMENDMENT) REGULATIONS**  
**2005**

**2005 No.347**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

**2. Description**

This instrument revises the fees payable to police forces for conducting searches of local police records in connection with applications for enhanced criminal record certificates or applications to register with the Criminal Records Bureau to be able to countersign applications for criminal record certificates and enhanced criminal record certificates. It also revises the fees payable to the Criminal Records Bureau in respect of applications for criminal record certificates and enhanced criminal record certificates.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

None.

**4. Legislative Background**

4.1 Part 5 of the Police Act 1997 provides for persons to make applications for criminal record certificates or enhanced criminal record certificates. Sections 115 and 116 deal with enhanced criminal record certificates, which, in addition to information about convictions, cautions, reprimands and final warnings, include other information from police records which the chief officer of police considers relevant to the purpose for which the certificate has been sought.

4.2 Applications for criminal record certificates or enhanced criminal record certificates have to be countersigned by someone registered with the Criminal Records Bureau for this purpose. Sections 119 and 120A provide for similar searches to be made by the police in relation to applications for registration.

4.3 Section 119 requires that fees be paid to the police for conducting such searches, and for the level of fee to be prescribed in Regulations.

**5. Extent**

This instrument applies to England Wales.

**6. European Convention on Human Rights**

Not applicable.

## 7. Policy background

- 7.1 The policy objective of Part 5 of the Police Act 1997 was to widen access to criminal record checks to the private, public and voluntary sectors. The highest level of certificate available through the Criminal Records Bureau, the enhanced criminal record certificate, includes other relevant information recorded by the police.
- 7.2 Prior to introduction of the Police Act 1997, police checks were conducted on persons applying for positions, principally in the public sector, affording substantial unsupervised access to children. This work was time-consuming, and the police were not separately resourced to undertake it. The Police Act 1997 therefore included provision for the police to be reimbursed for such work undertaken under the terms of the Act. The process of calculating the fee level for each force is undertaken in conjunction with the police.
- 7.3 The fees paid by the Criminal Records Bureau to police forces for the work entailed in undertaking searches of police records are kept under review. They were last amended by the Police Act 1997 (Criminal Records) (Amendment) (No. 3) Regulations 2004, which took effect on 1 November 2004.
- 7.4 Subsequent review has indicated a need to make further amendments. The revised figures reflect the continuing need to ensure that police authorities are properly recompensed for the service they provide to the Criminal Records Bureau.
- 7.5 In the cases of Dyfed-Powys, Gloucestershire, Lincolnshire, the Metropolitan Police, South Wales, South Yorkshire and the Police Service of Northern Ireland, the level of fee is reduced, while in City of London it remains the same. In all other cases, the level of fee is increased. The revised fees take effect on 25<sup>th</sup> March 2005.
- 7.6 The fees payable by applicants to the Criminal Records Bureau are also kept under review. A 'cost of living' increase is made to the fees payable by applicants for criminal record certificates and enhanced criminal record certificates with effect from 1 April 2005.
- 7.7 The cost of a criminal record certificate therefore rises from £28 to £29 and the cost of an enhanced criminal record certificate rises from £33 to £34. No fee is payable in relation to applications by volunteers, as defined in Police Act 1997 (Criminal Records) Regulations 2002, for either criminal record certificates or enhanced criminal record certificates. The revised figures represent a cost of living increase rounded to the nearest full pound (£).
- 7.8 The change to the fees payable to local police forces is not politically or legally significant, and, since it represents only a relatively small proportion of the overall fee that is charged for completed certificates, public interest is minimal.
- 7.9 The Criminal Records Bureau has a strategic requirement to become self-funding by financial year 2005/2006 through revenue from applications for criminal record certificates and enhanced criminal record certificates. The increase in certificate fees provided for in this instrument merely represents a cost of living increase rounded to the nearest full pound (£), to take effect from the beginning of fiscal year 2005/06.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as changes to the fees payable to police authorities has no impact on business, charities or voluntary bodies. Additionally, as the increase to the fees payable for criminal record certificates and enhanced criminal record certificates represents a cost of living increase it does not require the preparation of a Regulatory Impact Assessment.
- 8.2 The impact on the public sector, in relation to the changes to fees payable to police authorities, is to seek to ensure that police forces are properly rewarded for the work undertaken in pursuance of the production of enhanced criminal record certificates.

## **9. Contact**

Adrian Herring, at the Criminal Records Bureau [tel: 0151 676 1431 or e-mail: [adrian.herring@crb.gsi.gov.uk](mailto:adrian.herring@crb.gsi.gov.uk)] can answer any queries regarding the instrument.