

2006 No. 750

POLICE, ENGLAND AND WALES

**The Police Act 1997 (Criminal Records) (Registration)
Regulations 2006**

<i>Made</i> - - - -	<i>14th March 2006</i>
<i>Laid before Parliament</i>	<i>16th March 2006</i>
<i>Coming into force</i> - -	<i>6th April 2006</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 120ZA, 120AA and 125(1) and (5) of the Police Act 1997(a), makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Act 1997 (Criminal Records) (Registration) Regulations 2006, and shall come into force on 6th April 2006.

(2) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

“1997 Act” means the Police Act 1997;

“exempted question” means 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;

“prescribed purpose” means a purpose prescribed by the Secretary of State under section 113B(2) of the 1997 Act;

“register” means the register maintained by the Secretary of State for the purposes of Part 5 of the 1997 Act; and

“statutory office-holder” means a person appointed to an office by virtue of any enactment.

The register

3.—(1) There shall be included in the register the following information:

(a) the name and address of each registered person and any telephone or facsimile number or electronic mailing address which has been notified to the Secretary of State for communication purposes;

(a) 1997 c.50; sections 120ZA and 120AA were inserted by section 328 of, and paragraphs 1,7 and 9 of Schedule 35 to, the Criminal Justice Act 2003 (c.44).

- (b) the date on which the name of that person was first listed in the register;
- (c) the number assigned to that person on being listed;
- (d) the nature of the exempted questions, if any, that that person is likely to ask;
- (e) in the case of a registered body—
 - (i) whether that body is likely to countersign applications under section 113A or 113B of the 1997 Act at the request of bodies or individuals asking exempted questions and, if so, the nature of those questions;
 - (ii) the name and address of any individual for the time being nominated in accordance with regulation 4 below as being authorised to act for the body in relation to the countersigning of applications under Part 5 of the 1997 Act and any telephone or facsimile number or electronic mailing address which has been notified to the Secretary of State for communications purposes;
 - (iii) the date on which the name of that individual was first listed on the register;
 - (iv) the number assigned to that individual on being listed; and
 - (v) a specimen of the signature of that individual;
- (f) in the case of each registered person who is a statutory office-holder—
 - (i) the name and address of any individual for the time being nominated in accordance with regulation 4 below as being authorised to act for the statutory office holder in relation to the countersigning of applications under Part 5 of the 1997 Act and any telephone or facsimile number or electronic mailing address which has been notified to the Secretary of State for communications purposes;
 - (ii) the date on which the name of that individual was first listed on the register;
 - (iii) the number assigned to that individual on being listed; and
 - (iv) a specimen of the signature of that individual; and
- (g) in respect of each registered person other than a body, a specimen of any signature which will be used by that person for the purposes of countersigning applications under section 113A or 113B of the 1997 Act .

Nomination of authorised individuals

4.—(1) A body or statutory office-holder applying for registration under section 120(a) of the 1997 Act shall submit with the application the names of the individuals authorised to act for the body or statutory office-holder in relation to the countersigning of applications under Part 5 of the 1997 Act.

(2) A registered body and a registered person who is a statutory office-holder shall submit to the Secretary of State the names of any individuals so authorised after the registration of the body or the statutory office-holder, whether or not in substitution for any name previously submitted.

(3) The Secretary of State may refuse to accept, or to continue to accept, the nomination of an individual as so authorised if, in the opinion of the Secretary of State, that individual is not a suitable person to have access to information which has become, or is likely to become, available to him as a result of the registration of the body or the statutory office-holder which nominated him.

(4) In determining for the purposes of this regulation whether an individual is a suitable person to have access to any information, the Secretary of State may have regard, in particular, to the matters specified in section 120A(3) of the 1997 Act(b).

(a) 1997 c.50; section 120 was amended by section 134(3) and (4) of the Criminal Justice and Police Act 2001 (c.16)

(b) 1997 c.50; section 120A was inserted by section 163 , and paragraphs 1 and 8 of Schedule14 to , the Criminal Justice and Police Act 2001 (c.16), and amended by section 165 of the Serious Organised Crime and Police Act 2005 (c.15).

(5) Where the Secretary of State refuses to accept, or to continue to accept, the nomination of an individual under this regulation, he shall notify the body or the statutory office-holder concerned, and that body or statutory office-holder may submit the name of another individual in substitution.

Fee on application for inclusion in the register

5. The fee payable by a person on application for inclusion in the register shall be £300.

Additional fees

6.—(1) There shall be payable by a registered person which is a body a fee of £5 in respect of the second and each subsequent name entered in the register in accordance with regulation 3(e)(ii) above.

(2) There shall be payable by a registered person which is a statutory office-holder a fee of £5 in respect of the second and each subsequent name entered in the register in accordance with regulation 3(f)(i) above.

Conditions attached to registration

7. A person's registration shall be subject to the following conditions:

- (a) payment of the fee referred to in regulation 5 above ;
- (b) the fee payable under regulation 6(1) or 6(2) in respect of the second and each subsequent name entered in the register shall be invoiced by the Secretary of State to the person and payable on account within 15 days of the invoice date;
- (c) the fee payable in relation to an application under section 113A or 113B of the 1997 Act which is accompanied by a statement under section 113A(2)(b) or 113B(2)(b) of the 1997 Act shall be invoiced by the Secretary of State and payable on account within 15 days of the invoice date;
- (d) where a registered person has made a statement under section 113A(2)(b) or 113B(2)(b) of the 1997 Act in relation to an application for a criminal record certificate or an enhanced criminal record certificate, any charges levied in connection with the services it provides under Part 5 of the 1997 Act shall be—
 - (i) notified in writing to the Secretary of State who may publish details of any such charges in such manner as he thinks fit; and
 - (ii) set out in any documentation the registered person publishes which relates to the services it provides under Part 5 of the 1997 Act;
- (e) prior to submitting an application for a criminal record certificate or an enhanced criminal record certificate to the Secretary of State, a registered person shall use all reasonable endeavours to ensure that—
 - (i) the mandatory data fields are completed to the Secretary of State's satisfaction on the form prescribed in Schedule 2 to the Police Act 1997 (Criminal Records) Regulations 2002(a), and that the data supplied is accurate;
 - (ii) the certificate is requested for an exempted question or prescribed purpose as the case may be; and
 - (iii) if the application for a criminal record certificate or an enhanced criminal record certificate is made by a volunteer, the applicant falls within the definition of a volunteer as prescribed in the Police Act 1997 (Criminal Records) Regulations 2002;
- (f) prior to making a statement under section 113A(2)(b) or 113B(2)(b) of the 1997 Act in relation to an application for a criminal record certificate or an enhanced criminal record certificate, a registered person or his authorised agent shall verify the identity of the

(a) S.I. 2002/233, as amended by S.I. 2003/137, S.I. 2003/520 and S.I.2003/1418.

- applicant and in so doing comply with such conditions as the Secretary of State thinks fit and has notified to the registered person in writing;
- (g) where a registered person uses the services of another person to verify the identity of applicants, the registered person shall—
 - (i) ensure the suitability of that person to conduct such checks;
 - (ii) provide appropriate training and guidance to that person; and
 - (iii) ensure that that person discharges his duties in accordance with such conditions as the Secretary of State thinks fit under sub-paragraph (f) above;
 - (h) compliance with the code of practice for the time being in force under section 122 of the 1997 Act;
 - (i) the provision of any information reasonably required in order to consider—
 - (i) the continuing eligibility and suitability of registered persons,
 - (ii) the eligibility and suitability of applicants for registered person status , and
 - (iii) the continuing ability of registered persons to make payments of fees on behalf of applicants under Part 5 of the 1997 Act;
 - (j) any change to the details in the information recorded on the register shall be notified to the Secretary of State;
 - (k) any electronic system used by the registered person for the purposes of countersigning applications under sections 113A and 113B of the 1997 Act shall comply with such specifications as the Secretary of State may notify in writing to the registered body;
 - (l) the number of applications countersigned by the registered person in any 12 month period shall not be fewer than 100; and
 - (m) in the event of the Secretary of State removing or suspending the registered person from the register, that person shall pay for any applications knowingly submitted after such removal or suspension.

8.—(1) It shall be a condition of a person’s registration that, for the purposes only of paragraph (2) below , he shall allow a person authorised in writing for the purpose by the Secretary of State to enter any premises owned or occupied by any person appearing to him to be a registered person or an individual nominated in accordance with regulation 4 above, other than premises occupied exclusively for residential purposes as a private dwelling;

(2) A person authorised in writing for the purpose by the Secretary of State may require any person appearing to be a registered person or an individual nominated in accordance with regulation 4 above to produce to him any documents for the purpose of assessing whether the registered person or individual nominated in accordance with regulation 4 above has complied with the conditions of registration.

(3) A person exercising the power conferred by paragraph (1) above shall do so only at a reasonable hour.

(4) A person exercising that power shall comply with any reasonable request (whether before or after entry is gained to the premises) by any person present on the premises to do any one or more of the following—

- (a) state the purpose for which the power is being exercised;
- (b) show the authorisation by the Secretary of State for his exercise of the power; and
- (c) produce evidence of his identity;

(5) A person exercising that power shall make a record of the date and time of his entry, the period for which he remained there and his conduct while there.

(6) If the person exercising that power is requested to do so by any person present on the premises at the time of entry, he shall provide that person with a copy of the record made under paragraph (5) above.

9. The Secretary of State may remove from the register any registered person who fails to comply with the conditions set out in regulations 7 and 8 above.

Limit on number of countersignatures

10.—(1) The Secretary of State may refuse to accept a registered body's or statutory office-holder's nomination of a person to countersign any applications under Part 5 of the 1997 Act if the maximum number of names for that registered body or statutory office-holder are already registered.

(2) For the purposes of paragraph (1) above, the maximum number of names for a registered body or statutory office-holder is that specified administratively by the Secretary of State.

(3) Where more than the maximum number of names have been registered, the Secretary of State may remove from the register such number of names as is necessary to bring the registered body's or statutory office-holder's number of registered names to the maximum number permitted.

Revocations

11. The following Regulations are hereby revoked:

- (a) the Police Act (1997) Criminal Records (Registration) Regulations 2001(a); and
- (b) the Police Act (1997) Criminal Records (Registration) (Amendment) Regulations 2001(b).

Home Office
14th March 2006

Andy Burnham
Parliamentary Under Secretary of State

(a) S.I. 2001/1194.
(b) S.I. 2001/2498.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under sections 120ZA, 120AA and 125(1) and (5) of the Police Act 1997 (the “Act”), and come into force on 6th April 2006.

Regulation 3 sets out the information to be included in the register maintained by the Secretary of State under section 120 of the Act.

Regulation 4 sets out the procedure for the nomination of authorised individuals in relation to the countersigning of applications under Part 5 of the Act. A body or statutory office holder which has registered person status must submit names of those persons who are authorised to countersign applications for criminal record and enhanced criminal record certificates.

Regulation 5 sets out the fee payable on application for inclusion in the register.

Regulation 6 sets out additional fees which are payable by a registered person which is a body or a statutory office-holder for inclusion in the register of a second and each subsequent name of those authorised to countersign applications under Part 5 of the Act.

Regulation 7 sets out conditions which are attached to registration. These include requirements as to the payment of fees, the publication of details of charges levied, ensuring the accuracy of the information detailed on the disclosure application form, verification of the identity of the applicant prior to making an application for a criminal record or an enhanced criminal record certificate, compliance with the code of practice, suitability of electronic systems used, and the number of applications which must be signed.

Regulation 8 provides that registered persons and countersignatories must allow the Secretary of State access to their premises for the purpose of assessing compliance with the conditions attached to registration.

Regulation 9 enables the Secretary of State to remove from the register any person who fails to comply with the conditions of registration.

Regulation 10 sets out the limit on the number of countersignatories, and provides that the Secretary of State may refuse to accept the nomination of an authorised person of a countersignatory if the maximum number is already registered. It also enables the Secretary of State to remove any excess countersignatories from the register.

Regulation 11 revokes the Police Act 1997 (Criminal Records) (Registration) Regulations 2001 and the Police Act 1997 (Criminal Records) (Registration) (Amendment) Regulations 2001.

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