

EXPLANATORY MEMORANDUM TO
THE POLICE ACT 1997 (CRIMINAL RECORDS) (AMENDMENT)
REGULATIONS 2007

2007 No. 700

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

2. Description

2.1. The purpose of this statutory instrument is to amend the reference to the Police Information Technology Organisation (PITO) within the Police Act 1997 (Criminal Records) Regulations 2002 to the National Policing Improvement Agency (NPIA) in response to the take over of the function of running the Police National Computer (PNC).

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

3.1. None

4. Legislative Background

4.1. The Police Act 1997, under which the Criminal Records Bureau (CRB) operates, provides that a criminal record certificate (Standard Disclosure) and enhanced criminal record certificate (Enhanced Disclosure) will contain details of any ‘relevant matter’ taken from a ‘central record’.

4.2. The Act provides that a ‘relevant matter’ means convictions (including spent convictions) and cautions and that ‘central records’ means such records of convictions held for the use of police forces generally as may be prescribed.

4.3. The prescribed details of ‘central records’ were made in the Police Act (Criminal Records) Regulations 2002 which provided that a ‘central record’ was:

*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)).*

4.4. This definition requires amendment by way of statutory instrument as a consequence of the change of responsibility for the PNC. As a result these Regulations amend the definition of ‘central record’ introduced by the 2002 Regulations (as above) by replacing the reference to PITO with reference to NPIA. The Regulations also make a minor consequential amendment by changing the reference to “names index” to “names database” to reflect the new description of the PNC.

- 4.5. The references to sections 113 and 115 of the Police Act 1997 within the prescribed definition of 'central record' have been brought into line with previous amendments to the Act which introduced sections 113A and 113B by repealing section 115.
- 4.6. This take over of functions will occur on the 1st April 2007 which is the date on which the provisions in the Police and Justice Act 2006 that set up the NPIA and abolish PITO are to come into force.

5. Territorial Extent and Application

- 5.1. This instrument applies to England and Wales.
- 5.2. Scottish regulations have been amended in a similar way by the Police Act 1997 (Criminal Records) (Scotland) Amendment Regulations 2007 which were laid on 26th February 2007.

6. European Convention on Human Rights

- 6.1. As this instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1. The statutory instrument replaces reference to PITO with reference to NPIA. There is no adverse impact related to this amendment and therefore consultation was not required. Furthermore there is no public interest related to this amendment.
- 7.2. The objective of Part V of the Police Act 1997 ("the Act"), under which the CRB operates, was to widen access to criminal record checks to the private, public and voluntary sector. The CRB provides an effective means through which employers, voluntary organisations and others can obtain details of an individual's criminal history as part of the recruitment process.
- 7.3. There are two levels of criminal record checks available at the moment, Standard and Enhanced disclosures. Both provide information on an individual's unspent and spent convictions. If the post that is being applied for requires it, a check of the lists held by other government departments identifying a person as unsuitable to work with children and vulnerable adults is also undertaken. In addition to this, for an enhanced disclosure check, any local information held by a police force, deemed to be relevant to the position in question will be disclosed.
- 7.4. Information relating to an individual's criminal record is held on the PNC - this is currently owned and maintained by PITO.
- 7.5. To effect this change for the CRB these Regulations replace reference to PITO with reference to NPIA by amending the Police Act 1997 (Criminal Records) Regulations 2002.
- 7.6. The NPIA is a statutory non-departmental public body set up under section 1 of the Police and Justice Act 2006. It is to have a variety of different objects and powers, and under paragraph 1(e)(i) of Schedule 1 of that Act one of its objects is to provide support

to forces in connection with information technology. Maintaining the PNC on behalf of the police forces thereby falls to the NPIA.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Helen Ryan at the Criminal Records Bureau (Tel: 0151 676 1494 or e-mail: helen.ryan@crb.gsi.gov.uk) can answer any queries regarding the instrument.