

2009 No. 2495

CRIMINAL LAW, NORTHERN IRELAND

**The Police Act 1997 (Criminal Records) (Disclosure)
(Amendment No. 2) Regulations (Northern Ireland) 2009**

<i>Made</i> - - - -	<i>1st September 2009</i>
<i>Laid before Parliament</i>	<i>18th September 2009</i>
<i>Coming into force</i> - -	<i>12th October 2009</i>

The Secretary of State makes the following Regulations, in exercise of the powers conferred by sections 113B(2)(b), 113BA(1), 113BB(1) and 125 of the Police Act 1997(a).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Act 1997 (Criminal Records) (Disclosure) (Amendment No. 2) Regulations (Northern Ireland) 2009 and shall come into force on 12 October 2009.

(2) These Regulations extend to Northern Ireland only.

Amendment of the Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008.

2.—(1) The Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008(b) are amended as follows:

(2) In regulation 2(1) omit the words

““The Secretary of State” means the Secretary of State for Northern Ireland; and”

(3) Omit regulation 2(2).

(4) For regulation 9 substitute the following:—

9.—(1) The purposes for which an enhanced criminal record certificate may be required in accordance with a statement made by a registered person under section 113B(2)(b) of the Act are prescribed as follows; namely the purposes of—

(a) considering the applicant’s suitability—

(i) to engage in any activity which is regulated activity relating to children within the meaning of Part I of Schedule 2 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007; or

(ii) for a position which involves regularly caring for, training, advising, counselling, supervising or being in sole charge of a person aged under 18;

(b) considering the applicant’s suitability—

(a) 1997 c.50.
(b) S.I. 2008/542.

- (i) to engage in an activity which is a regulated activity relating to vulnerable adults within the meaning of Part II of Schedule 2 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007; or
 - (ii) for a position which involves regularly caring for, training, supervising or being in sole charge of a vulnerable adult within the meaning of Article 3 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007;
- (c) considering the applicant's suitability to hold a taxi driver's licence under Article 79A of the Road Traffic (Northern Ireland) Order 1981;
- (d) registration for child minding or providing day care under Part XI of the Children (Northern Ireland) Order 1995 and within the meaning of Articles 19 and 119 of that Order, including the assessment of any person to have regular contact with children who is:
 - (i) living at the premises at which the childminding is taking or is to take place;
 - (ii) working at the premises at which the childminding is taking or is to take place at times when the child minding is taking or is to take place at those premises;
- (e) placing children with foster parents in accordance with any provision of, or made by virtue of, the Children Act 1989 or the Children (Northern Ireland) Order 1995 or the exercise of any duty under or by virtue of section 67 of that Act or Article 108 of that Order (welfare of privately fostered children) including information in respect of any person who is—
 - (i) living in the same household as a foster parent (or a person wishing to be approved as or intending to act as a foster parent) within the meaning of Article 55 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 or a person who looks after a child in circumstances in which the child is a privately fostered child within the meaning of Article 106 of the Children (Northern Ireland) Order 1995;
 - (ii) living in the same household as a private foster parent (or a person wishing to be approved or intending to act as a private foster parent), within the meaning of the Children (Northern Ireland) Order 1995, or Article 55(8) and (9) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007;
- (f) a decision by an adoption agency within the meaning of Article 2 of the Adoption (Northern Ireland) Order 1987 as to a person's suitability to adopt a child including information in respect of any person living in the same household as the prospective adopter;
- (g) considering an individual's suitability to be included in, or remain in, the health service list specified in paragraph (2) below;
- (h) considering—
 - (i) the suitability of a director of a body corporate to be included in, or remain in, sub-paragraph (b) or (c) of that list;
 - (ii) the suitability of a member of a limited liability partnership to be included in, or remain in sub-paragraph (c) of that list; or
 - (iii) the suitability of a member of the body of persons controlling a body corporate (whether or not a limited liability partnership) to be included in, or to remain in sub-paragraph (d) of that list;
- (i) considering the applicant's suitability to engage in any activity which is a controlled activity relating to children within the meaning of Article 25 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007;
- (j) considering the applicant's suitability to engage in any activity which is a controlled activity relating to vulnerable adults within the meaning of Article 26 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007;
- (k) considering the applicant's suitability for any office or employment or other work in Access NI;

- (l) registration under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (regulation of establishments and agencies);
 - (m) registration under Part 1 of the Health and Social Services Act (Northern Ireland) 2001 (social care workers);
- (2) The list referred to in paragraph (1)(g) above is any list prepared for the purposes of Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972 of—
- (a) health care professionals undertaking to provide primary medical services;
 - (b) persons undertaking to provide general dental services;
 - (c) persons undertaking to provide general ophthalmic services; or
 - (d) persons undertaking to provide pharmaceutical services.
- (5) After regulation 9 insert—
- 9A.**—(1) Suitability information relating to children in cases in which an application for or enhanced criminal record certificate is made for a person prescribed in sub-paragraph (a), (d), (e), (f), (g), (h), (i), (l) or (m) of regulation 9(1) are prescribed for the purposes of section 113BA of the Police Act 1997.
- (2) Suitability information relating to vulnerable adults in cases in which an application for an enhanced criminal record certificate is made for a purpose prescribed in paragraph (b), (g), (h), (j), (l) or (m) of regulation 9(1) are prescribed for the purposes of section 113BB of the Police Act 1997.

Northern Ireland Office
1st September 2009

Paul Goggins
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations substitute new regulations 9 and 9A in the Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008.

The effect of the substitution is to provide for the introduction of the new Vetting and Barring Scheme for Northern Ireland provided by the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

© Crown copyright 2009

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

2009 No. 2495

CRIMINAL LAW, NORTHERN IRELAND

The Police Act 1997 (Criminal Records) (Disclosure)
(Amendment No. 2) Regulations (Northern Ireland) 2009

£4.00