

This Statutory Instrument has been made in consequence of a defect in Statutory Instrument 2009/1798 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2009 No. 3334

CRIMINAL LAW, NORTHERN IRELAND

**The Police Act 1997 (Criminal Records) (Disclosure)
(Amendment No. 3) Regulations (Northern Ireland) 2009**

<i>Made</i> - - - -	<i>15th December 2009</i>
<i>Laid before Parliament</i>	<i>17th December 2009</i>
<i>Coming into force</i> - -	<i>11th January 2010</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 112(1)(b), 113A(1)(b), 113B(1)(b) and (2)(b), 118(2) and (3), 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. 3) Regulations (Northern Ireland) 2009 and shall come into force on 11 January 2010.

(2) These regulations extend to Northern Ireland only.

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

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

(2) For regulation 4 (fees for disclosure) substitute—

“4. The fee payable in relation to an application for the issue of a basic or standard disclosure is £26 and the fee in relation to an application for the issue of an enhanced disclosure is £30.”.

(3) In regulation 9(1) after sub-paragraph (m) insert—

“(n) considering the applicant’s suitability to obtain or retain a licence under regulation 5 of the Misuse of Drugs Regulations (Northern Ireland) 2002(c) or under Article 3(2) of Regulation 2004/273/EC(d) or under Article 6(1) of Regulation 2005/111/EC(e) where the question relates to any person who as a result of his role in the body concerned is required to be named in the application for such a licence

(a) 1997 c.50.
(b) S.I. 2008/542 as amended by S.I.2009/1798 and S.I.2009/2495.
(c) S.R. 2002/1.
(d) O.J. No. L47 18.2.2004, p.1.
(e) O.J. No. L22, 26.1.2005, p.1.

(or would have been so required if that person had had that role at the time the application was made).”.

(4) For regulation 11 (fingerprinting) substitute—

“Fingerprinting

11.—(1) Where the Secretary of State requires an application under Part V of the Act to be supplemented by evidence of identity in the form of fingerprints then the place at which they are to be taken is to be in accordance with paragraphs (2) and (3) below and the Secretary of State shall notify the applicant—

- (a) of his requirement; and
- (b) of the fact that any fingerprint 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 a 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 the fingerprints; and
- (b) that he proposes to attend at a police station specified by him (“the specified police station”) for the purpose 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 police 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) the Chief Constable shall make access to any computer data relating to the fingerprints impossible as soon as is practicable to do so.

(6) Any applicant who asks to be allowed to witness the destruction of his fingerprints or copies 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 certificate shall be issued to him, not later than the end of the period of three months, beginning on the day on which he asks for it, by the Chief Constable 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 VI of the Police and Criminal Evidence (Northern Ireland) Order 1989(a).”.

15th December 2009

Paul Goggins
Minister of State
Northern Ireland Office

(a) S.I. 1989/1341 (N.I. 12).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008 (“the Principal Regulations”).

The effect of the amendment to Regulation 4 of the Principal Regulations is to reduce the fee for a standard disclosure from £28 to £26. The fees for basic and enhanced disclosures are unchanged.

The amendment of Regulation 9 of the Principal Regulations enables an application for enhanced disclosure to be made for the purpose of considering the suitability to a person to obtain or retain a drugs licence.

Regulation 11 of the Principal Regulations was inserted by S.I. 2009/ 1798 and provided for the taking of fingerprints as evidence of identity from applicants and for the subsequent destruction of fingerprints taken for this purpose. The substituted provision corrects defective drafting in that provision.

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