

2013 No. 2669

POLICE, ENGLAND AND WALES

**The Police Act 1997 (Criminal Records) (Amendment No. 2)
Regulations 2013**

<i>Made</i>	- - - -	<i>15th October 2013</i>
<i>Laid before Parliament</i>		<i>22nd October 2013</i>
<i>Coming into force</i>	- -	<i>2nd December 2013</i>

The Secretary of State, in exercise of the powers conferred by sections 113B(2)(b), 113BA(1) and 125 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) (Amendment No. 2) Regulations 2013 and shall come into force on 2nd December 2013.

(2) These Regulations extend to England and Wales.

Amendment of the Police Act 1997 (Criminal Records) Regulations 2002

2.—(1) The Police Act 1997 (Criminal Records) Regulations 2002(b) are amended as follows.

(2) In regulation 5A—

(a) for paragraph (a) substitute—

“(a) considering the applicant’s suitability to engage in any activity which is work with children.”;

(b) at the appropriate place insert—

“(ze) assessing the suitability of a person for any office or employment which relates to national security.”;

(c) omit the following paragraphs—

(i) paragraph (g);

(ii) paragraph (ga)(c);

(iii) paragraph (h);

(iv) paragraph (i);

(a) 1997 c. 50. Section 113B(2) was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by section 63(1) of, and paragraph 14(1) and (3) of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006 (c. 47). Section 113BA(1) was inserted by paragraph 14 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006.

(b) S.I. 2002/233; regulation 5A was inserted by S.I. 2006/748; relevant amending instruments are S.I. 2006/2181, 2007/1892, 2007/3224, 2008/2143, 2009/1882, 2010/577, 2010/817, 2010/1836, 2012/523, 2012/979, 2012/2114, 2012/3016 and 2013/1194.

(c) Paragraph (ga) was inserted by S.I. 2008/2143 and amended by S.I. 2009/1882.

- (v) paragraph (j);
- (vi) paragraph (k);
- (vii) paragraph (p);
- (viii) paragraph (q);
- (ix) paragraph (r);
- (x) paragraph (u);
- (xi) paragraph (za)(a);
- (xii) paragraph (zb)(b);
- (xiii) paragraph (zc)(c).

(3) After regulation 5B(d) insert the provisions set out in the Schedule to these Regulations.

Amendment of the Police Act 1997 (Criminal Records) (No. 2) Regulations 2009

3.—(1) Regulation 5 of the Police Act 1997 (Criminal Records) (No. 2) Regulations 2009(e) is amended as follows.

(2) For paragraph (e) substitute—

“(e) a decision made by an adoption agency within the meaning of section 2 of the Adoption and Children Act 2002(f), or the compiling of a report for an authority making a decision in respect of an application to be a special guardian within the meaning of section 14A of the Children Act 1989(g), as to a person’s suitability to adopt a child or be a special guardian, including obtaining information in respect of any person aged 18 years or over living in the same household as the prospective adopter or special guardian;”.

Home Office
15th October 2013

Taylor of Holbeach
Parliamentary Under-Secretary of State

SCHEDULE

Regulation 2(4)

“Definition of “work with children”

5C. For the purposes of regulation 5A(a) “work with children” means—

- (a) considering the applicant’s suitability to engage in any activity which is a regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006(h) as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012(i);

(a) Paragraph (za) was inserted by S.I. 2010/817 and amended by S.I. 2012/979.
(b) Paragraph (zb) was inserted by S.I. 2012/523.
(c) Paragraph (zc) was inserted by S.I. 2012/2114.
(d) Regulation 5B was inserted by S.I. 2013/1194.
(e) S.I. 2009/1882. Regulation 5 was substituted by S.I. 2012/2114.
(f) 2002 c. 38.
(g) 1989 c. 41. Section 14A was inserted by section 115 of the Adoption and Children Act 2002 (c. 38) and amended by section 38 of the Children and Young Persons Act 2008 (c. 23).
(h) 2006 c. 47. Part 1 of Schedule 4 was amended by paragraph 41 of Schedule 1 to the Education and Skills Act 2008 (c. 25), paragraph 1 of Schedule 10 to the Protection of Freedoms Act 2012 (c. 9) and S.I. 2009/2610.
(i) 2012 c. 9.

- (b) considering the applicant’s suitability to engage in any activity which is a regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006;
- (c) a decision made by an adoption agency within the meaning of section 2 of the Adoption and Children Act 2002(a), or the compiling of a report for the authority making a decision in respect of an application to be a special guardian within the meaning of section 14A of the Children Act 1989(b), as to a person’s suitability to adopt a child or be a special guardian, including obtaining information in respect of any person aged 18 years or over living in the same household as the prospective adopter or special guardian;
- (d) registration for child minding or providing day care under Part 2 of the Children and Families (Wales) Measure 2010(c), including assessing the suitability of any person to have regular contact with a child who is—
 - (i) aged 16 or over and living on the premises at which the child minding or day care is being or is to be provided;
 - (ii) aged 16 or over and working, or who will be working, on the premises at which the child minding or day care is being or is to be provided at times when such child minding or day care is being or is to be provided;
- (e) registration under Chapters 2, 3 or 4 of Part 3 of the Childcare Act 2006(d) (regulation of provision of childcare in England), including assessing the suitability of any person to have regular contact with a child who is—
 - (i) aged 16 or over and living on the premises at which the childcare is being or is to be provided;
 - (ii) aged 16 or over and working on the premises at which the childcare is being or is to be provided at times when such childcare is being or is to be provided;
- (f) placing children with foster parents in accordance with any provision of, or made by virtue of, the Children Act 1989(e) or the Children (Northern Ireland) Order 1995(f) 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 obtaining information in respect of any person who is—
 - (i) aged 18 or over and living in the same household as a person who is, or who wishes to be approved as, a foster parent within the meaning of section 53(7)(a) or (b) of the Safeguarding Vulnerable Groups Act 2006;
 - (ii) aged 16 or over and living in the same household as a person who fosters, or intends to foster, a child privately within the meaning of section 66(1) of the Children Act 1989 or who is otherwise a private foster parent within the meaning of section 53(7)(c) and (8) of the Safeguarding Vulnerable Groups Act 2006;
- (g) obtaining information in respect of any person who is aged 16 or over and who lives in the same household as an individual who is having or who has had their suitability assessed for the purposes of—
 - (i) engaging in any activity which is regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups

(a) 2002 c. 38.

(b) 1989 c. 41. Section 14A was inserted by section 115 of the Adoption and Children Act 2002 (c. 38) and amended by section 38 of the Children and Young Persons Act 2008 (c. 23).

(c) 2010 c. 01.

(d) 2006 c. 21.

(e) 1989 c. 41. Section 66 was amended by paragraph 14 of Schedule 4 to the Care Standards Act 2000 (c. 14). Section 67 was amended by section 44 of the Children Act 2004 (c. 31).

(f) S.I 1995/755.

Act 2006(a) or as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012;

- (ii) working in a further education institution (within the meaning of section 140 of the Education Act 2002(b)) where the normal duties of that work involve regular contact with children; or
- (iii) working in a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010(c)) where the normal duties of that work involve regular contact with children

where that individual, and the person who lives in the same household, live on the premises where that activity or work would normally take place;

- (h) considering the applicant's suitability to obtain or hold a taxi driver licence;
- (i) work done infrequently which, if done frequently, would be regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 or as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012;
- (j) registration under Part II of the Care Standards Act 2000(d) (establishments and agencies);
- (k) registration under Part IV of the Care Standards Act 2000 (social care workers);
- (l) considering the applicant's suitability for work in a further education institution (within the meaning of section 140 of the Education Act 2002) or a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010) where the normal duties of that work involve regular contact with persons aged under 18.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Act 1997 (Criminal Records) Regulations 2002 to substitute new prescribed 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 Police Act 1997. In particular, the new prescribed purposes include the consideration of a person's suitability to "work with children", which is defined in new regulation 5C, and assessing the suitability of a person for any office or employment which relates to national security.

These Regulations also amend the Police Act 1997 (Criminal Records) (No. 2) Regulations 2009 to substitute a new prescribed purpose for which suitability information in relation to children must be included in an enhanced criminal record certificate.

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- (a) 2006 c. 47. Part 1 of Schedule 4 was amended by paragraph 41 of Schedule 1 to the Education and Skills Act 2008 (c. 25), paragraph 1 of Schedule 10 to the Protection of Freedoms Act 2012 (c. 9) and S.I. 2009/2610.
 - (b) 2002 c. 32. Section 32 was amended by S.I. 2010/1158.
 - (c) 2010 c. 32. Section 1B was inserted by section 53(7) of the Education Act 2011 (c. 21).
 - (d) 2000 c. 14.

£4.00

UK2013101711 10/2013 19585

<http://www.legislation.gov.uk/id/uksi/2013/2669>

ISBN 978-0-11-110493-4



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