

**EXPLANATORY MEMORANDUM TO
THE POLICE ACT 1997 (CRIMINAL RECORDS) (AMENDMENT)
REGULATIONS 2014**

2014 No 239

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

2. Purpose of the instrument

2.1 The purpose of this instrument is to prescribe (i) the fee payable on application for a criminal conviction certificate (being a certificate issued under s112 of the Police Act 1997 which includes details of unspent convictions and conditional cautions only); (ii) the details that such a certificate must contain; and (iii) the meaning of “central records”, which are the records where convictions and conditional cautions that may be disclosed are held.

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

3.1 None

4. Legislative Context

4.1 These regulations prescribe required details to enable s112 of the Police Act 1997 to operate once that provision is commenced, allowing individuals to apply for a Criminal Conviction Certificate.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

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

7. Policy background

- What is being done and why

7.1 These regulations prescribe such details as are necessary to enable s112 of the Police Act 1997 to operate once that provision is commenced. This will mean that individuals will be able to apply for a Criminal Conviction Certificate detailing their unspent conditional cautions and convictions (as defined by the Rehabilitation of Offenders Act 1974). The ability for an

individual to apply for a Criminal Conviction Certificate in England and Wales (pursuant to 112 of the Police Act 1997) will also enable s56 of the Data Protection Act 1998 (creating the offence of enforced subject access) to be commenced.

- Consolidation

7.2 There are no current plans to consolidate relevant legislation.

8. Consultation outcome

8.1 No consultation was considered necessary. The details to be prescribed mirror existing provisions in relation to the disclosure of criminal record information, and the fee mirrors that currently charged by Disclosure Scotland for the provision of a Criminal Conviction Certificate on a full cost recovery basis. Guidance will be provided to applicants and stakeholders, and the government will publicly announce the commencement of s112.

9. Guidance

9.1 Guidance will be available on the Disclosure and Barring Service website.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The issuing of Criminal Conviction Certificates will be subject to internal review.

13. Contact

Robbie Kent at the Home Office. Tel: 020 7035 3045 or email: Robbie.kent7@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.