

EXPLANATORY MEMORANDUM TO
THE POLICE ACT 1997 (CRIMINAL RECORDS) (FEES) (AMENDMENT)
REGULATIONS 2019

2019 No. 1107

1. Introduction

- 1.1 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 This instrument reduces the fees payable to the Disclosure and Barring Service for a basic, standard, or enhanced criminal records certificate, as set out in the Police Act 1997 (the 1997 Act) and further prescribed in the Police Act 1997 (Criminal Records) Regulations 2002 (the 2002 Regulations). This change is to ensure that the fees charged are commensurate with the cost-recovery principles of Managing Public Money, i.e. do not create a surplus.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 This instrument extends and applies to England and Wales.
4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The criminal records disclosure regime for England and Wales was established under Part V of the Police Act 1997, as amended by the Protection of Freedoms Act 2012. The 1997 Act makes provision for criminal record certificates to be provided to eligible applicants, and permits the Secretary of State to prescribe fees for certificates, or to waive the fee.
6.2 The current fees are set out in the Police Act 1997 (Criminal Records) Regulations 2002 (SI 2002/233), as amended. There are three types of certificate for which

applications may be made under existing legislation: (i) basic; (ii) standard; and, (iii) enhanced. These are described further in section 7 below. These regulations reduce the fees payable. There is no change to the fee waiver, which is being retained.

7. Policy background

What is being done and why?

- 7.1 The Disclosure and Barring Service (DBS) is a non-departmental public body. The DBS administers the processes that implement the criminal records disclosure system established in the 1997 Act. A principal responsibility of the DBS is to issue certificates either confirming that the individual has no convictions and is of no other interest to police, or detailing relevant criminal record information about the individual.
- 7.2 Since the fees payable were last amended, the DBS has modernised its technology system, securing efficiencies of scale. This change has facilitated higher than forecast volumes of applications being received and processed. Therefore, fees need to be amended to ensure that the cost savings are reflected in the fees, and individuals are not being overcharged for services received.
- 7.3 The Fees are being reduced to ensure that the principles in Managing Public Money are adhered to.
- 7.4 This instrument reduces fees for basic, standard, and enhanced DBS checks, where the fee is payable. There is no change to the fee for the update service, which allows applicants to keep their certificates up to date and enables employers to check them.
- 7.5 The different certificates are:
- **Basic Certificates** that include details of unspent convictions and unspent conditional cautions. A basic check can be used for any position or purpose; any employer can therefore ask to see a basic criminal record check.
 - **Standard Certificates** are for those working in roles listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (for example solicitor, accountant, private security). These include spent and unspent convictions and cautions, subject to filtering arrangements.
 - **Enhanced Certificates** are for those working in roles listed in the Exceptions Order and the 2002 Regulations (for example those working with children in a supervised capacity). These include spent and unspent convictions and cautions, subject to filtering arrangements, plus any additional information considered relevant by the local police force to the role being applied for.
- 7.6 The fees will be reduced as follows:
- Basic certificate from £25 to £23
 - Standard certificate from £26 to £23
 - Enhanced certificate from £44 to £40
- 7.7 The online DBS Update Service allows applicants to keep their DBS certificates up to date and for employers to check a DBS certificate. The price of the Update Service will remain at £13, excepting for applicants from voluntary groups, for whom the fee is waived.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 No consolidation is planned.

10. Consultation outcome

10.1 No formal consultation has been undertaken. There is no change in policy – this is simply to ensure that the DBS operates on a cost recovery basis.

11. Guidance

11.1 The DBS will inform their customers and stakeholders of the changes via their website, social media and all other channels of communication open to them.

12. Impact

12.1 There is no change to policy. This change solely concerns a reduction in the fee charged for the Enhanced, Standard and Basic disclosure certificate application. There is a positive impact on businesses and individuals due to the reduced costs.

12.2 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is that the fees apply equally to all those who carry out licensable activity, regardless of the size of the business that they work for. Therefore, businesses, regardless of size will benefit from the reduced fees.

14. Monitoring & review

14.1 The monitoring of this legislation will be carried out by the DBS which will inform the Government of its effectiveness and any future changes to the fees which may be required.

15. Contact

15.1 Caroline Shanklyn at the Home Office Sponsorship Unit (Telephone: 07826 515513 or email: Caroline.Shanklyn@homeoffice.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Zoe Wilkinson, Deputy Director, Home Office Sponsorship Unit at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Victoria Atkins MP, Parliamentary Under Secretary of State at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.