

SCHEDULES

SCHEDULE 9

CONSEQUENTIAL AMENDMENTS

PART 7

CRIMINAL RECORDS

Police Act 1997

- 104 The Police Act 1997 is amended as follows.
- 105 In section 113BC(1) (suitability information: power to amend), after paragraph (b), insert “;
- (c) amend section 120AC(4)(b) in consequence of an order made under paragraph (a) or (b).”
- 106 In section 114(3) (application of other provisions of Part 5 to an application under that section), for “Section 113A(3) to (6)” substitute “Sections 113A(3) to (6), 120AC and 120AD”.
- 107 In section 116(3) (application of other provisions of Part 5 to an application under that section), for “and 113BA to 113BC” substitute “, 113BA to 113BC, 120AC and 120AD”.
- 108 (1) Section 117 (disputes about accuracy of certificates) is amended as follows.
- (2) In the title, for “accuracy of certificates” substitute “certificates and up-date information”.
- (3) After subsection (1A) insert—
- “(1B) Where a person believes that the wrong up-date information has been given under section 116A in relation to the person’s certificate, the person may make an application in writing to the Secretary of State for corrected up-date information.”
- (4) In subsection (2)—
- (a) after “inaccurate” insert “, or that the wrong up-date information has been given,”, and
- (b) after “new certificate” insert “or (as the case may be) corrected up-date information”.
- (5) After subsection (2) insert—
- “(2A) In this section—
- “corrected up-date information”, in relation to a certificate, means information which includes—

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- (a) information that the wrong up-date information was given in relation to the certificate on a particular date, and
- (b) new up-date information in relation to the certificate,
- “up-date information” has the same meaning as in section 116A.”
- 109 (1) Section 118 (evidence of identity) is amended as follows.
- (2) In subsection (1)—
- (a) after “consider” insert “an application as mentioned in section 116A(4)(a) or (5)(a) or”, and
- (b) after “117” insert “, 117A”.
- (3) After subsection (3) insert—
- “(3A) The Secretary of State by notice given in writing may require a person who has a certificate which is subject to up-date arrangements under section 116A to attend at a place and time specified in the notice to provide fingerprints for the sole purpose of enabling the Secretary of State to verify whether information in the possession of the Secretary of State that the Secretary of State considers may be relevant to the person’s certificate does relate to that person.
- (3B) If a person fails to comply with a requirement imposed under subsection (3A), the Secretary of State by notice given in writing may inform that person that, from a date specified in the notice, the person’s certificate is to cease to be subject to up-date arrangements.”
- (4) In subsection (4) after “117” insert “or 117A”.
- 110 (1) Section 119 (sources of information) is amended as follows.
- (2) In subsection (1A), after paragraph (a) (but before the word “or” at the end of the paragraph) insert—
- “(aa) the provision of up-date information under section 116A;”.
- (3) In subsection (1B), for the words from “determining” to the end substitute “deciding whether to make a request to that chief officer under section 113B(4)”.
- (4) After subsection (2) insert—
- “(2A) Where, in connection with the provision of up-date information under section 116A, the chief officer of a police force receives a request for information of the kind mentioned in section 113B(4), the chief officer of police must comply with it as soon as practicable.”
- (5) In subsection (4), at the end of paragraph (a), after “registration;” insert—
- “(aa) any application as mentioned in section 116A(4)(a) or (5)(a);”.
- (6) In subsection (8), at the end of paragraph (a), insert—
- “(aa) under this Part in relation to any request under section 116A(1);”.
- 111 (1) Section 119B (independent monitor) is amended as follows.
- (2) Omit subsection (5)(a).
- (3) In subsection (5)(c), omit the words from “or disclosed” to the end.
- (4) After subsection (5)(c) insert—

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- “(ca) a sample of cases in which the chief officer of a police force has decided that information should be disclosed or not disclosed to the Secretary of State for the purpose of the provision by the Secretary of State of up-date information under section 116A.”
- (5) After subsection (8) insert—
- “(8A) The independent monitor has the functions conferred on the monitor by section 117A.”
- (6) In subsection (9) after “section” insert “or section 117A”.
- 112 (1) Section 120 (registered persons) is amended as follows.
- (2) In subsection (2)—
- (a) for the words from the beginning to “the”, where it first occurs, substitute “The”,
- (b) after paragraph (a) insert “and”, and
- (c) omit paragraph (c) and the word “and” before it.
- (3) After that subsection insert—
- “(2A) Subsection (2) is subject to—
- (a) regulations under section 120ZA,
- (b) section 120A, and
- (c) section 120AA and regulations made under that section.”
- 113 After section 122(1) (code of practice) insert—
- “(1A) The reference in subsection (1) to the use of information provided to registered persons under this Part includes a reference to the use of information provided in accordance with section 116A(1) to relevant persons (within the meaning of that section) who are not registered persons under this Part.”
- 114 Omit section 122(3A)(a) (power of Secretary of State to refuse to issue certificate where failure to comply with code of practice by, or in connection with, registered person).
- 115 (1) Section 124 (offences: disclosure) is amended as follows.
- (2) In subsection (4)—
- (a) in paragraph (b), omit “(5) or”, and
- (b) for “subsections (5) and (6)” substitute “subsection (6)”.
- (3) Omit subsection (5).
- 116 (1) Section 124A (offences relating to disclosure of information obtained in connection with delegated function) is amended as follows.
- (2) In subsection (1)(c) omit “or registered person”.
- (3) After subsection (6) insert—
- “(6A) For the purposes of this section the reference to an applicant includes a person who makes a request under section 116A(1), 120AC(1) or 120AD(2).”

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- 117 After section 125B(2) (form of applications) insert—
- “(3) In this section “application” includes a request under section 116A(1), 120AC(1) or 120AD(2).”
- 118 In section 126(1) (interpretation of Part 5), in the definition of “certificate”, after “application” insert “but does not include any documents issued in response to—
- (a) a request under section 116A(1),
 - (b) an application as mentioned in section 116A(4)(a) or (5)(a), or
 - (c) a request under section 120AC or 120AD.”

Gambling Act 2005

- 119 In section 73(3) of the Gambling Act 2005 (procedure on consideration of application for licence)—
- (a) for “section 115” substitute “section 113B”, and
 - (b) at the end (and on a new line below paragraph (b)) insert “or the production of up-date information (within the meaning given by section 116A of that Act) in relation to such a certificate,”.

National Health Service Act 2006

- 120 The National Health Service Act 2006 is amended as follows.
- 121 In section 129(6) (regulations as to pharmaceutical services), in paragraph (i), for the words from “section 113” to the end of the paragraph substitute “section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,”.
- 122 In section 132(4) (persons authorised to provide pharmaceutical services), in paragraph (c), for the words from “section 113” to the end of the paragraph substitute “section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,”.
- 123 In section 147A(3) (performers of pharmaceutical services and assistants), in paragraph (i), for the words from “section 113” to the end of the paragraph substitute “section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,”.

National Health Service (Wales) Act 2006

- 124 The National Health Service (Wales) Act 2006 is amended as follows.
- 125 In section 72(3) (regulations as to general ophthalmic services), in paragraph (c), for the words from “section 113” to the end of the paragraph substitute “section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,”.
- 126 In section 83(6) (regulations as to pharmaceutical services), in paragraph (i), for the words from “section 113” to the end of the paragraph substitute “section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,”.

- 127 In section 86(4) (persons authorised to provide pharmaceutical services), in paragraph (c), for the words from “section 113” to the end of the paragraph substitute “section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,”.
- 128 In section 105(3) (supplementary lists), in paragraph (g), for the words from “section 113” to the end of the paragraph substitute “section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,”.

Safeguarding Vulnerable Groups Act 2006

- 129 (1) Paragraph 19 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006 (barred lists: information) is amended as follows.
- (2) In sub-paragraph (1)(c) for “chief officer of a relevant police force” substitute “relevant chief officer”.
- (3) In sub-paragraph (3) after “which the” insert “relevant”.
- (4) In sub-paragraph (5) for “chief officer of the relevant police force” substitute “relevant chief officer”.
- (5) In sub-paragraph (7) for the definition of “relevant police force” substitute—
““the relevant chief officer” means any chief officer of a police force who is identified by the Secretary of State for the purposes of this paragraph;”.
- (6) After sub-paragraph (7) insert—
“(7A) Subsections (10) and (11) of section 113B of the Police Act 1997 apply for the purposes of the definition of “the relevant chief officer” as they apply for the purposes of that section.”
- (7) In sub-paragraph (8) for “which police forces are relevant police forces” substitute “who is the relevant chief officer”.