

SCHEDULES

SCHEDULE 5

AMENDMENTS: CRIMINAL RECORDS

The Police Act 1997(c. 50)

- 1.—(1) Section 113A (criminal record certificates) is amended as follows.
 - (2) In subsection (4) for “the registered person who countersigned” substitute “whoever acted as the registered person in relation to”.
 - (3) After subsection (8) insert—
 - “(9) For the purposes of this Part a person acts as the registered person in relation to an application for a criminal record certificate if the person—
 - (a) countersigns the application, or
 - (b) transmits the application to the Department under subsection (2A).”
- 2.—(1) Section 113B (enhanced criminal record certificates) is amended as follows.
 - (2) In subsection (6) for “the registered person who countersigned” substitute “whoever acted as the registered person in relation to”.
 - (3) After subsection (11) insert—
 - “(12) For the purposes of this Part a person acts as the registered person in relation to an application for an enhanced criminal record certificate if the person—
 - (a) countersigns the application, or
 - (b) transmits the application to the Department under subsection (2A).”
3. 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).”
4. 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”.

5. 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”.

6.—(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 Department 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—

- (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.”

7.—(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 Department 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 Department to verify whether information in the possession of the Department that the

Department 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 Department 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".

8.—(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);”.

9.—(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—

“(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 Department for the purpose of the provision by the Department 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”.

10.—(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.”.
- (4) In subsection (5)(b) for “countersign” substitute “act as the registered person in relation to”.
- 11.—**(1) Section 120ZA (regulations about registration) is amended as follows.
- (2) In subsection (2)(d) after “this Part” insert “or the transmitting of applications under section 113A(2A) or 113B(2A)”.
 - (3) In subsection (4)—
 - (a) in paragraph (a) for “he countersigns” substitute “acting as the registered person in relation to”, and
 - (b) in paragraph (b) for “registered person who countersigns it” substitute “person who acts as the registered person in relation to the application”.
- 12.** In section 120A(4) (provision of information about suitability of registered persons)—
- (a) in paragraph (b)(iii) for “the countersigning of applications by a particular applicant for registration or by a particular registered person” substitute “a particular applicant for registration, or a particular registered person, acting as the registered person in relation to applications under this Part”, and
 - (b) in paragraph (c) for “the countersigning of” substitute “a person acting as the registered person in relation to”.
- 13.—**(1) Section 120AA (refusal, cancellation or suspension of registration on other grounds) is amended as follows.
- (2) In subsection (1) for “countersign” substitute “act as the registered person in relation to”.
 - (3) In subsection (2)—
 - (a) in paragraph (a) for “countersign” substitute “act as the registered person in relation to”, and
 - (b) in paragraph (b) for “countersigned” substitute “acted as the registered person in relation to”.

14. In section 120AB(8)(a) (exception from procedure for cancellation or suspension) for “countersigning” substitute “acting as the registered person in relation to”

15.—(1) Section 122 (code of practice) is amended as follows—

(2) After subsection (1) 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.”.

(3) In subsection (3)—

(a) for “registered person who countersigned” substitute “person who acted as the registered person in relation to”, and

(b) in paragraph (b) for “countersigned” substitute “acted as the registered person”.

(4) Omit subsection (3A)(a).

16.—(1) Section 124 (offences: disclosure) is amended as follows.

(2) In subsection (1)(b) and (c) for “countersigned” substitute “acted as the registered person in relation to”.

(3) In subsection (2) for “countersigned” substitute “in relation to which the person who acted as the registered person did so”.

(4) In subsection (3) for “countersigned by or at the request of an individual” substitute “in relation to which an individual acted as the registered person, or in relation to which the person who acted as the registered person did so at the request of an individual”.

(5) In subsection (4)—

(a) in paragraph (b) omit “(5) or”, and

(b) for “subsections (5) and (6)” substitute “subsection (6)”.

(6) Omit subsection (5).

17.—(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).”.

18. 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).”.

19.—(1) In section 126(1) (interpretation of Part 5) is amended as follows.

(2) 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.”.

(3) After the definition of “chief officer” insert—

““the Department” means the Department of Justice in Northern Ireland;”.