

2006 No. 748

POLICE, ENGLAND AND WALES

**The Police Act 1997 (Criminal Records) (Amendment)
Regulations 2006**

<i>Made</i>	- - - -	<i>14th March 2006</i>
<i>Laid before Parliament</i>		<i>16th March 2006</i>
<i>Coming into force</i>	- -	<i>6th April 2006</i>

The Secretary of State, in exercise of the powers conferred by upon him by sections 113A (1)(b), 113B (1)(b), (2)(b) and (9), 113E (3)(c), 114 (1)(b), 116 (1)(b) 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) Regulations 2006 and shall come into force on 6th April 2006.

(2) These Regulations extend to England and Wales.

Amendment of 2002 Regulations

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

(a) for regulations 4 and 4A (fees for criminal record certificates and enhanced criminal record certificates) substitute—

“Fees for criminal record certificates and enhanced criminal record certificates

4. The fee payable in relation to an application for the issue of a criminal record certificate or an enhanced criminal record certificate is prescribed as—

- (a) £31 in the case of a criminal record certificate;
- (b) £36 in the case of an enhanced criminal record certificate, and
- (c) where an urgent preliminary response is sought under section 113E (3)(b) of the Act, an additional £6 in each case;

save that no fee is payable in relation to an application made by a volunteer.”;

(b) after regulation 5 insert the provisions set out in the Schedule to these Regulations (enhanced criminal record certificates: prescribed purposes);

(c) in regulation 10 (enhanced criminal record certificates: relevant police forces), after paragraph (b), insert—

(a) 1997 c.50. Sections 113A, 113B and 113E were inserted in Part V of that Act by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15).

(b) S.I. 2002/233; relevant amendments have been made by S.I.s 2003/137; 2003/1418; 2004/367 and 2005/347.

- “(ba) the States of Jersey Police Force if the applicant resides or has resided within the period of five years preceding the application within Jersey;
 - (bb) the salaried police force of the Island of Guernsey if the applicant resides or has resided within the period of five years preceding the application within Guernsey;
 - (bc) the Isle of Man Constabulary if the applicant resides or has resided within the period of five years preceding the application within the Isle of Man;
 - (bd) such of the police forces referred to in sub-paragraphs (a) to (bc) above as appear to the Secretary of State to be in possession of information regarding the applicant;”, and
- (d) regulation 12 and Schedule 3 (fees payable to police authorities for information provided to the Secretary of State) are omitted.

Home Office
14th March 2006

Andy Burnham
Parliamentary Under Secretary of State

SCHEDULE

Regulation 2(b)

Provisions to be inserted after regulation 5

“Enhanced criminal record certificates: prescribed purposes

5A. The 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 Act are prescribed as follows, namely the purposes of—

- (a) considering the applicant’s suitability for a position which involves regularly caring for, training, supervising, or being solely in charge of, persons aged under 18;
- (b) considering the applicant’s suitability for a position which involves regularly caring for, training, supervising, or being in sole charge of, a person aged 18 or over who is a vulnerable adult within the meaning given by regulation 5B below;
- (c) obtaining or holding a certificate for the purposes of sections 19 or 27(1) or (5) of the Gaming Act 1968(a) (gaming);
- (d) obtaining or holding a certificate of consent, or a licence, for any of the purposes of Schedule 2 to that Act (licences);
- (e) registration or certification in accordance with Schedule 1A, 2 or 2A to the Lotteries and Amusements Act 1976(b) (societies, schemes and lottery managers);
- (f) obtaining or holding a licence under section 5 or 6 of the National Lottery etc Act 1993(c) (running or promoting lotteries);
- (g) registration under section 71 of the Children Act 1989(d), registration for child minding or providing day care under Part XA of that Act, or registration under, or the holding of a certificate under, section 79W of that Act;
- (h) registration under Part II of the Care Standards Act 2000(a) (establishments and agencies);

(a) 1968 c.65.
(b) 1976 c.32.
(c) 1993 c.39.
(d) 1989 c.41.

- (i) registration under Part IV of that Act (social care workers);
- (j) placing children with foster parents in accordance with any provision of, or made by virtue of, the Children Act 1989 or the Children (Northern Ireland) Order 1995 or the exercise of any duty under or by virtue of , section 68 of that Act or article 108 of that Order (welfare of privately fostered children);
- (k) a decision made by an adoption agency within the meaning of section 2 of the Adoption and Children Act 2002**(b)** as to a person’s suitability to adopt a child;
- (l) considering an individual’s suitability to be included in, or to remain in, the health service list specified in regulation 5C(1) below;
- (m) considering—
 - (i) the suitability of a director of a body corporate to be included in, or to remain in, sub-paragraph (b) or (c) of that list;
 - (ii) the suitability of a member of a limited liability partnership to be included in, or to remain in, sub-paragraph (c) of that list, or
 - (iii) the suitability of a member of the body of persons controlling a body corporate (whether or not a limited liability partnership) to be included in, or to remain in, sub-paragraph (d) of that list;
- (n) considering an individual’s suitability to be included in, or to remain in, the health service list specified in regulation 5C(2) below, or
- (o) considering the suitability of an individual for a position in a school within the meaning of section 4 of the Education Act 1996**(c)**.

Vulnerable Adult

5B.(1) The reference to a vulnerable adult in regulation 5A(b) above is a reference to a person who is receiving services of a type listed in paragraph (2) below and who, in consequence of a condition of a type listed in paragraph (3) below, has a disability of a type listed in paragraph (4) below.

- (2) The services are—
 - (a) accommodation and nursing or personal care in a care home;
 - (b) personal care or nursing or support to live independently in his own home;
 - (c) any services provided by an independent hospital, independent clinic, independent medical agency or National Health Service body;
 - (d) social care services, or
 - (e) any services provided in an establishment catering for a person with learning difficulties.
- (3) The conditions are—
 - (a) a learning or physical disability;
 - (b) a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs, or
 - (c) a reduction in physical or mental capacity.
- (4) The disabilities are—

(a) 2000 c.14.
 (b) 2002 c.38.
 (c) 1996 c.56.

- (a) a dependency on others in the performance of, or a requirement for assistance in the performance of, basic physical functions;
- (b) severe impairment in the ability to communicate with others, or
- (c) impairment in a person's ability to protect himself from assault, abuse or neglect.

(5) In this regulation "care home", "independent clinic", "independent hospital", "independent medical agency" and "National Health Service body" all have the same meaning as in the Care Standards Act 2000.

Health Service lists

5C.(1) The list referred to in regulation 5A (l) above is any list prepared for the purposes of Part 2 of the National Health Service Act 1977**(a)** of—

- (a) medical practitioners undertaking to provide general medical services;
- (b) persons undertaking to provide general dental services;
- (c) persons undertaking to provide general ophthalmology services, or
- (d) persons undertaking to provide pharmaceutical services.

(2) The list referred to in regulation 5A (n) above is any list prepared by a Primary Care Trust or Health Authority under—

- (a) section 28DA of the National Health Service Act 1977 () or section 8ZA of the National Health Service Act 1977 () or section 8ZA of the National Health Service (Primary Care) Act 1997 (lists of persons who may perform personal medical or personal dental services), or
- (b) section 43D of the 1977 Act (supplementary lists),

or any list corresponding to a list referred to in sub-paragraph (a) above prepared by a Primary Care Trust or Health Authority by virtue of regulations made under section 41 of the Health and Social Care Act 2001**(b)** (which provides for the application of enactments in relation to local pharmaceutical services)."

(a) 1977 c. 49.
 (b) 2001 c. 15.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 6th April 2006, amend the Police Act 1997 (Criminal Records) Regulations 2002 as follows.

The fees payable on application to the Secretary of State for a criminal record certificate or an enhanced criminal record certificate under Part V of the Police Act 1997 are increased from £29 and £34 respectively to £31 and £36, with an additional fee of £6 in each case if the applicant seeks an urgent preliminary response from the Secretary of State as to his suitability for certain purposes.

The Regulations insert in the 2002 Regulations a list of the purposes in respect of which an application can be made for an enhanced criminal record certificate. These are set out in the Schedule to the Regulations.

The Regulations add the police forces specified in regulation 2 (c) to the list of police forces from which the Secretary of State can obtain information for the purposes of issuing a certificate.

The Regulations also remove the reference to the Secretary of State paying a prescribed fee to the police for the information which they provide to him since, by virtue of section 119(3) of the 1997 Act (as amended by the Serious Organised Crime and Police Act 2005) he will now pay such fee as is appropriate.

STATUTORY INSTRUMENTS

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