

SCHEDULE 1

Article 3

Modifications to provisions of Part 5 of the Police Act 1997

- 1.—(1) In section 112 (criminal conviction certificates)—
  - (a) in subsection (1)(a) omit “in the prescribed manner and form”;
  - (b) in subsection (3)—
    - (i) in the definition of “central records”, after “records of convictions” insert “and conditional cautions”,
    - (ii) in the appropriate place insert—

““conditional caution” means a caution given under section 22 of the Criminal Justice Act 2003 (c. 44) or section 66A of the Crime and Disorder Act 1998 (c. 37), other than one that is spent for the purposes of Schedule 2 to the Rehabilitation of Offenders Act 1974 (c. 53);”.
2. In section 113A (criminal record certificates)—
  - (a) in subsection (1)(a) omit “in the prescribed manner and form”;
  - (b) after subsection (2) insert—

“(2A) But an application for a criminal record certificate need not be countersigned by a registered person if—

    - (a) the application is transmitted to the Secretary of State electronically by a registered person who satisfies conditions determined by the Secretary of State, and
    - (b) it is transmitted in accordance with requirements determined by the Secretary of State.”;
  - (c) in subsection (4) for “the registered person who countersigned” substitute “whoever acted as the registered person in relation to”;
  - (d) in subsection (6)—
    - (i) for the definition of “exempted question” substitute—

““exempted question” means a question which—

      - (a) so far as it applies to convictions, is a question in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act; and—
      - (b) so far as it applies to cautions, is a question to which paragraph 3(3) or (4) of Schedule 2 to that Act has been excluded by an order of the Secretary of State under paragraph 4 of that Schedule;”;
    - (ii) for the definition of “relevant matter” substitute—

““relevant matter” means—

      - (a) a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction, and
      - (b) a caution, including a caution that is spent for the purposes of Schedule 2 to that Act.”;
  - (e) after subsection (7)(1) insert—

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(1) Paragraph 14(1) and (2) of Schedule 9 to the 2006 Act, which is extended to the Isle of Man by Article 4, inserted new subsections (7) and (8) into section 113A but new subsection (8) is omitted by paragraph 2(a) of Schedule 2 to this Order.

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- “(8) 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 Secretary of State under subsection (2A).”.
3. In section 113B (enhanced criminal record certificates)—
- (a) in subsection (1)(a) omit “in the prescribed manner and form”;
  - (b) after subsection (2) insert—
    - “(2A) But an application for an enhanced criminal record certificate need not be countersigned by a registered person if—
      - (a) the application is transmitted to the Secretary of State electronically by a registered person who satisfies conditions determined by the Secretary of State, and
      - (b) it is transmitted in accordance with requirements determined by the Secretary of State.”;    - (c) in subsection (6) for “the registered person who countersigned” substitute “whoever acted as the registered person in relation to”;
    - (d) 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 Secretary of State under subsection (2A).”.
- 4.—(1) In the heading to section 113E (criminal records certificates: specified children’s and adults’ lists: urgent cases) omit “children’s and”.
- (2) In section 113E (criminal records certificates: specified adults’ lists: urgent cases)—
- (a) omit subsections (1) and (2);
  - (b) in subsection (3)—
    - (i) omit “113A or”,
    - (ii) for paragraph (a) substitute—
      - “(a) it is made in a case prescribed under section 113BB(1)”(2);
  - (c) in subsection (5) omit the definitions of “children’s suitability statement”, “specified children’s direction”, “specified children’s list”, “adults’ suitability statement” and “specified adults’ list”;
  - (d) after subsection (5) insert—
    - “(5A) For the purposes of this section each of the following is a specified adults’ list—
      - (a) the list kept under section 81 of the Care Standards Act 2000 (c. 14);
      - (b) the adults’ barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006 (c. 47);
      - (c) the adults’ barred list maintained under article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)).”.

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(2) Section 113BB was inserted by paragraph 14(1) and (4) of Schedule 9 to the 2006 Act, which is extended to the Isle of Man by Article 4 subject to the modifications specified in Schedules 2 and 3 to this Order.

5. In subsection 114(1)(a) (criminal record certificates: Crown employment) omit “in the prescribed form”.

6. In section 116 (enhanced criminal record certificates: judicial appointments and Crown employment)—

- (a) in subsection (1)(a) omit “in the prescribed form”;
- (b) for subsection (2) substitute—

“(2) An application under this section in respect of a judicial appointment must be accompanied by a statement by a Minister of the Crown or the Chief Secretary of the Isle of Man, or a person nominated by a Minister of the Crown or the Chief Secretary of the Isle of Man, that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant’s suitability for such appointment.

(2A) An application under this section in respect of an appointment by or under the Crown to a position of such description as may be prescribed must be accompanied by a statement by a Minister of the Crown, or a person nominated by a Minister of the Crown, that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant’s suitability for such appointment.”.

7. In section 118 (evidence of identity)—

- (a) in subsection (1) omit “or 120”;
- (b) after subsection (2) insert—

“(2ZA) For the purpose of applications from persons resident in the Isle of Man, “prescribed” in subsection (2)(a) and (b) means prescribed by regulations made by the Department of Home Affairs.”;

- (c) after subsection (2A)(d) insert—

“(da) by the Isle of Man Passport Office;

(db) by the Department of Transport of the Isle of Man for the purposes of the licensing and registration of motorists and motor vehicles;

(dc) by the Department of Health and Social Security of the Isle of Man in connection with keeping records of national insurance numbers.”;

- (d) after subsection (4) insert—

“(5) Regulations made by the Department of Home Affairs under this section—

(a) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Department of Home Affairs to be necessary or expedient;

(b) shall not have effect unless they are approved by Tynwald.

(6) The power conferred on the Department of Home Affairs by this section to make regulations may be exercised—

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases;

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

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- (iii) any such provision either unconditionally or subject to any prescribed conditions.”.
8. In section 119 (sources of information)—
- (a) for subsection (1A) substitute—
- (a) “(1A) The Secretary of State may require the Independent Safeguarding Authority to make available specified information for the purpose of enabling the Secretary of State to carry out functions under this Part in relation to any application for a certificate.
- (b) In this section “Independent Safeguarding Authority” has the same meaning as in the Safeguarding Vulnerable Groups Act 2006.”(3);
- (b) in subsection (3) omit “section 120A(4) or”;
- (c) in subsection (4) for paragraphs (a) and (b) substitute “any application for a certificate”;
- (d) in subsection (6) for (i) substitute (l).
9. In section 120 (registered persons)—
- (a) in subsection (2)—
- (i) omit “and 120AA and to section 120A”,
- (ii) in paragraph (b) for “subsections (4) to (6), and” substitute “subsections (4) and (5).”,
- (iii) omit paragraph (c);
- (b) for subsection (4) substitute—
- “(4) The only person that may apply for registration under this section is the Department of Home Affairs.”;
- (c) in subsection (5)—
- (i) for “A body applying for registration” substitute “The Department of Home Affairs when applying for registration”,
- (ii) for paragraph (b) substitute—
- “(b) is likely to act as the registered person in relation to applications under section 113A or 113B at the request of bodies or individuals asking exempted questions.”;
- (d) omit subsection (6).
10. In section 120ZA (regulations about registration)—
- (a) in subsection (2) for paragraph (d) substitute—
- “(d) the nomination by the Department of Home Affairs of the individuals authorised to act for it in relation to the countersigning of applications under this Part or the transmitting of applications under section 113A(2A) or 113B(2A)”;
- (b) in subsection (3)(a) omit “or continued registration”;
- (c) in subsection (4)—
- (i) in paragraph (a) for “he countersigns” substitute “acting as the registered person in relation to”,
- (ii) in paragraph (b) for “registered person who countersigns it” substitute “person who acts as the registered person in relation to the application.”.

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(3) Section 81 of the Policing and Crime Act 2009 (c. 26) amended the 2006 Act to rename the Independent Barring Board as the Independent Safeguarding Authority.

(iii) omit paragraph (c) and the word “and” immediately preceding it.

11. In section 122A(2) (delegation of functions of Secretary of State) for paragraphs (a) and (b) substitute “to make regulations”.

12. In section 123 (offences: falsification. &c), in subsection (3)—

- (a) for “imprisonment” substitute “custody”;
- (b) for “level 5 on the standard scale” substitute “£5000”.

13. In section 124 (offences: disclosure)—

- (a) in subsection (1)(b) and (c) for “countersigned” substitute “acted as the registered person in relation to”;
- (b) in subsection (2) for “countersigned” substitute “in relation to which the person who acted as the registered person did so”;
- (c) in subsection (3) for “countersigned by or at the request of an individual” substitute “in relation to which the person who acted as the registered person did so at the request of an individual”;
- (d) in subsection (7)—
  - (i) for “imprisonment” substitute “custody”;
  - (ii) for “level 3 on the standard scale” substitute “£1000”.

14. In section 124A (further offences: disclosure of information obtained in connection with delegated functions)—

- (a) in subsection (4)—
  - (i) for “imprisonment” substitute “custody”;
  - (ii) for “51 weeks” substitute “12 months”;
  - (iii) for “level 3 on the standard scale” substitute “£1000”;
- (b) in subsection (5) —
  - (i) after “Criminal Justice Act 2003” insert “in England and Wales”;
  - (ii) for “51 weeks” substitute “12 months”;
- (c) in subsection (6) for “(i)” substitute “(l)”.

15. For section 125 (regulations) substitute—

“125.—(1) Subject to section 118(2ZA), anything authorised or required by any provision of this Part to be prescribed shall be prescribed by regulations made by the Secretary of State.

(2) Regulations under this Part may make different provision for different cases.”.

16. Before section 126 insert—

#### “Form of Applications

125B.—(1) The Secretary of State may determine the form, manner and contents of an application for the purposes of any provision of this Part.

(2) A determination may, in particular, impose requirements about the form or manner in which an electronic application is to be signed or countersigned.”.

17. In section 126 (interpretation of Part 5)—

- (a) in subsection (1)—

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- (i) before the definition of “caution”, insert—
    - “an appointment by or under the Crown” shall not include—
    - (i) the appointment of a member of the Isle of Man Civil Service for service with any department within the meaning of the Government Departments Act 1987 (an Act of Tynwald (c. 13)) or any statutory board within the meaning of the Statutory Boards Act 1987 (an Act of Tynwald (c. 14)) or for service in any other office of the Government of the Isle of Man,
    - (ii) the employment of any person by any such department, statutory board or other office,
    - (iii) the appointment of a member of the Isle of Man Civil Service for service with the Manx Museum and National Trust or the employment of any person by the Manx Museum and National Trust, or
    - (iv) the appointment of any person to any statutory office, other than judicial office, under the law of the Isle of Man;”,
  - (ii) in the definition of “caution”, for “in England and Wales or Northern Ireland” substitute “in England and Wales, Northern Ireland, Guernsey or the Isle of Man”,
  - (iii) in the definition of “chief officer”, at the end of sub-paragraph (iii) insert—
    - “, and
    - (iv) the chief officer of the salaried Police Force of the Island of Guernsey, and
    - (v) the chief officer of the States of Jersey Police Force, and
    - (vi) the Chief Constable of the Isle of Man Constabulary;”,
  - (iv) after the definition of “chief officer” insert—
    - “custody” shall be construed in accordance with section 1 of the Custody Act 1995 (an Act of Tynwald (c. 1));
    - “Department of Home Affairs” means the Department of Home Affairs of the Isle of Man;”,
  - (v) in the definition of “government department”, after “a Northern Ireland department” insert “and any department, council or committee (however called or styled) of the States of Guernsey, States of Alderney or the Chief Pleas of Sark including any statutory corporation or authority, and any department of the States of Jersey, and any department within the meaning of the Government Departments Act 1987 (an Act of Tynwald) or any statutory board within the meaning of the Statutory Boards Act 1987 (an Act of Tynwald);”,
  - (vi) omit the definition of “Minister of the Crown”,
  - (vii) in the definition of “police force”, at the end of sub-paragraph (ii) insert—
    - “and
    - (iii) the salaried Police Force of the Island of Guernsey, and
    - (iv) the States of Jersey Police Force, and
    - (v) the Isle of Man Constabulary;”,
- (b) for subsection (2) substitute—
- “(2) Subject to subsection (2A), a reference to an Act, or to a provision of an Act, shall be construed as a reference to that Act or provision, as the case may be, as it has effect in England and Wales from time to time.

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(2A) A reference to a provision of this Act extended to the Isle of Man by Order in Council shall be construed as a reference to that provision as it has effect in the Isle of Man.”;

(c) omit subsections (3) and (4).