2015 CHAPTER 9

# PART 5

## CRIMINAL RECORDS

**Restriction on information provided to certain persons**

**37.**—(1) The following provisions are repealed—

(a) section 101 of the Justice Act (Northern Ireland) 2011 (which, if commenced, would insert section 112(2A) into the Police Act 1997 requiring copies of certain criminal conviction certificates to be given to employers etc.);

(b) section 113A(4) of the Police Act 1997 (requirement to send copy of criminal record certificate to registered person); and

(c) section 113B(5) and (6) of that Act (requirement to give relevant information, and copy of enhanced criminal record certificate to registered person).

(2) After section 120AB of the Police Act 1997 (procedure for certain cancellations or suspensions of registration) insert—

"**120AC Registered persons: information on progress of an application**

(1) The Department must, in response to a request from a person who is acting as the registered person in relation to an application under section 113A or 113B, inform that person whether or not a certificate has been issued in response to the application.

(2) Subsections (3) and (4) apply if, at the time a request is made under subsection (1), a certificate has been issued.

(3) In the case of a certificate under section 113A, if it was a certificate stating that there is no relevant matter recorded in central records, the Department may inform the person who made the request that the certificate was such a certificate.

(4) In the case of a certificate under section 113B, if it was a certificate—

(a) stating that there is no relevant matter recorded in central records and no information provided in accordance with subsection (4) of that section, and

(b) if section 113BA(1) or 113BB(1) applies to the certificate, containing no suitability information indicating that the person to whom the certificate is issued—

(i) is barred from regulated activity relating to children or to vulnerable adults, or

(ii) is included in a list kept under Article 70(2)(e)(iii) or 88A(2)(b)(iii) of the Education and Libraries (Northern Ireland) Order 1986,

the Department may inform the person who made the request that the certificate was such a certificate.

(5) If no certificate has been issued, the Department must inform the person who made the request of such other matters relating to the processing of the application as the Department considers appropriate.

(6) Subject to subsections (2) to (4), nothing in this section permits the Department to inform a person who is acting as the registered person in relation to an application under section 113A or 113B of the content of any certificate issued in response to the application.

(7) The Department may refuse a request under subsection (1) if it is made after the end of a prescribed period beginning with the day on which the certificate was issued.

(8) In this section—

"central records" and "relevant matter" have the same meaning as in section 113A;

"suitability information" means information required to be included in a certificate under section 113B by virtue of section 113BA or 113BB.

(9) Expressions in subsection (4)(b) and in the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 have the same meaning in that paragraph as in that Order.

**120AD Registered persons: copies of certificates in certain circumstances**

(1) Subsection (2) applies if—

(a) the Department gives up-date information in relation to a criminal record certificate or enhanced criminal record certificate,

(b) the up-date information is advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate, and

(c) the person whose certificate it is in respect of which the up-date information is given applies for a new criminal record certificate or (as the case may be) enhanced criminal record certificate.

(2) The Department must, in response to a request made within the prescribed period by the person who is acting as the registered person in relation to the application, send to that person a copy of any certificate issued in response to the application if the registered person—

(a) has counter-signed the application or transmitted it to the Department under section 113(2A) or 113B(2A),

(b) has informed the Department that the applicant for the new certificate has not, within such period as may be prescribed, sent a copy of it to a person of such description as may be prescribed, and

(c) no prescribed circumstances apply.

(3) The power under subsection (2)(b) to prescribe a description of person may be exercised to describe the registered person or any other person.

(4) In this section "up-date information" has the same meaning as in section 116A.".