# Serious Organised Crime and Police Act 2005

**2005 CHAPTER 15**

## PART 5

MISCELLANEOUS

*Criminal record checks*

### 163 Criminal record certificates

(1) Sections 113 and 115 of the Police Act 1997 (c. 50) (criminal record certificates) are omitted.

(2) Before section 114 of that Act insert—

"113A **Criminal record certificates**

(1) The Secretary of State must issue a criminal record certificate to any individual who—
  (a) makes an application in the prescribed manner and form, and
  (b) pays in the prescribed manner any prescribed fee.

(2) The application must—
  (a) be countersigned by a registered person, and
  (b) be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.

(3) A criminal record certificate is a certificate which—
  (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records, or
  (b) states that there is no such matter.

**Changes to legislation:** *Serious Organised Crime and Police Act 2005, Cross Heading: Criminal record checks is up to date with all changes known to be in force on or before 02 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) The Secretary of State must send a copy of a criminal record certificate to the registered person who countersigned the application.

(5) The Secretary of State may treat an application under this section as an application under section 113B if—

(a) in his opinion the certificate is required for a purpose prescribed under subsection (2) of that section,

(b) the registered person provides him with the statement required by that subsection, and

(c) the applicant consents and pays to the Secretary of State the amount (if any) by which the fee payable in relation to an application under that section exceeds the fee paid in relation to the application under this section.

(6) In this section—

"central records" means such records of convictions and cautions held for the use of police forces generally as may be prescribed;

"exempted question" means 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;

"relevant matter" means—

(a) a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction, and

(b) a caution.

113B **Enhanced criminal record certificates**

(1) The Secretary of State must issue an enhanced criminal record certificate to any individual who—

(a) makes an application in the prescribed manner and form, and

(b) pays in the prescribed manner any prescribed fee.

(2) The application must—

(a) be countersigned by a registered person, and

(b) be accompanied by a statement by the registered person that the certificate is required for a prescribed purpose.

(3) An enhanced criminal record certificate is a certificate which—

(a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records and any information provided in accordance with subsection (4), or

(b) states that there is no such matter or information.

(4) Before issuing an enhanced criminal record certificate the Secretary of State must request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—

(a) might be relevant for the purpose described in the statement under subsection (2), and

(b) ought to be included in the certificate.

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(5) The Secretary of State must also request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—

(a) might be relevant for the purpose described in the statement under subsection (2),

(b) ought not to be included in the certificate, in the interests of the prevention or detection of crime, and

(c) can, without harming those interests, be disclosed to the registered person.

(6) The Secretary of State must send to the registered person who countersigned the application—

(a) a copy of the enhanced criminal record certificate, and

(b) any information provided in accordance with subsection (5).

(7) The Secretary of State may treat an application under this section as an application under section 113A if in his opinion the certificate is not required for a purpose prescribed under subsection (2).

(8) If by virtue of subsection (7) the Secretary of State treats an application under this section as an application under section 113A, he must refund to the applicant the amount (if any) by which the fee paid in relation to the application under this section exceeds the fee payable in relation to an application under section 113A.

(9) In this section—

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

"relevant police force", in relation to an application under this section, means a police force which is a relevant police force in relation to that application under regulations made by the Secretary of State.

(10) For the purposes of this section references to a police force include any of the following—

(a) the Royal Navy Regulating Branch;

(b) the Royal Marines Police;

(c) the Royal Military Police;

(d) the Royal Air Force Police;

(e) the Ministry of Defence Police;

(f) the National Criminal Intelligence Service;

(g) the National Crime Squad;

(h) the British Transport Police;

(i) the Civil Nuclear Constabulary;

(j) the States of Jersey Police Force;

(k) the salaried police force of the Island of Guernsey;

(l) the Isle of Man Constabulary;

(m) a body with functions in any country or territory outside the British Islands which correspond to those of a police force in any part of the United Kingdom,

and any reference to the chief officer of a police force includes the person responsible for the direction of a body mentioned in this subsection.

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(11) For the purposes of this section each of the following must be treated as if it were a police force—

(a) the Commissioners for Her Majesty's Revenue and Customs (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to any one of the Commissioners);

(b) the Serious Organised Crime Agency (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Director General of the Agency);

(c) such other department or body as is prescribed (and regulations may prescribe in relation to the department or body the person to whom a reference to the chief officer is to be taken to be).

113C **Criminal record certificates: suitability relating to children**

(1) If an application under section 113A or 113B is accompanied by a children's suitability statement the criminal record certificate or enhanced criminal record certificate (as the case may be) must also state—

(a) whether the applicant is included in a specified children's list;

(b) if he is included in such a list, such details of his inclusion as may be prescribed;

(c) whether he is subject to a specified children's direction;

(d) if he is subject to such a direction, the grounds on which it was given and such details as may be prescribed of the circumstances in which it was given.

(2) A children's suitability statement is a statement by the registered person that the certificate is required for the purpose of considering—

(a) the applicant's suitability to be employed, supplied to work, found work or given work in a position (whether paid or unpaid) within subsection (5),

(b) the applicant's suitability to be a foster parent or to adopt a child,

(c) the applicant's suitability to be a child's special guardian for the purposes of sections 14A and 14C of the Children Act 1989,

(d) the applicant's suitability to have a child placed with him by virtue of section 70 of the Children (Scotland) Act 1995 or by virtue of section 5(2), (3) and (4) of the Social Work (Scotland) Act 1968, or

(e) the suitability of a person living in the same household as the applicant to be a person mentioned in paragraph (b) or (c) or to have a child placed with him as mentioned in paragraph (d).

(3) Each of the following is a specified children's list—

(a) the list kept under section 1 of the Protection of Children Act 1999;

(b) the list kept under section 1(1) of the Protection of Children (Scotland) Act 2003;

(c) the list kept under Article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

(d) any list kept for the purposes of regulations under Article 70(2)(e) or 88A(2)(b) of the Education and Libraries (Northern Ireland) Order 1986;

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(e) any such other list as the Secretary of State specifies by order if he thinks that the list corresponds to a list specified in paragraphs (a) to (c) and is kept in pursuance of a country or territory outside the United Kingdom.

(4) Each of the following is a specified children's direction—

(a) a direction under section 142 of the Education Act 2002;

(b) anything which the Secretary of State specifies by order which he thinks corresponds to such a direction and which is done for the purposes of the law of Scotland or of Northern Ireland or of a country or territory outside the United Kingdom.

(5) A position falls within this subsection if it is any of the following—

(a) a child care position within the meaning of the Protection of Children Act 1999;

(b) a child care position within the meaning of the Protection of Children (Scotland) Act 2003;

(c) a child care position within the meaning of Chapter 1 of Part 2 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

(d) a position, employment or further employment in which may be prohibited or restricted by regulations under Article 70(2)(e) or 88A(2)(b) of the Education and Libraries (Northern Ireland) Order 1986;

(e) a position which involves work to which section 142 of the Education Act 2002 applies;

(f) a position of such other description as may be prescribed.

(6) An order under subsection (4)(b) may make such modifications of subsection (1)(d) as the Secretary of State thinks necessary or expedient in consequence of the order.

113D **Criminal record certificates: suitability relating to adults**

(1) If an application under section 113A or 113B is accompanied by an adults' suitability statement the criminal record certificate or enhanced criminal record certificate (as the case may be) must also state—

(a) whether the applicant is included in a specified adults' list;

(b) if he is included in such a list, such details of his inclusion as may be prescribed.

(2) An adults' suitability statement is a statement by the registered person that the certificate is required for the purpose of considering the applicant's suitability to be employed, supplied to work, found work or given work in a position (whether paid or unpaid) falling within subsection (4).

(3) Each of the following is a specified adults' list—

(a) the list kept under section 81 of the Care Standards Act 2000;

(b) the list kept under Article 35 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

(c) any such other list as the Secretary of State specifies by order if he thinks that the list corresponds to a list specified in paragraph (a) or

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(b) and is kept in pursuance of the law of Scotland or of a country or territory outside the United Kingdom.

(4) A position falls within this subsection if it is any of the following—

(a) a care position within the meaning of Part 7 of the Care Standards Act 2000;

(b) a care position within the meaning of Part 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

(c) a position concerned with providing a care service (as defined by section 2(1) of the Regulation of Care (Scotland) Act 2001);

(d) a position of such other description as may be prescribed.

113E **Criminal record certificates: specified children's and adults' lists: urgent cases**

(1) Subsection (2) applies to an application under section 113A or 113B if—

(a) it is accompanied by a children's suitability statement,

(b) the registered person requests an urgent preliminary response, and

(c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.

(2) The Secretary of State must notify the registered person—

(a) if the applicant is not included in a specified children's list, of that fact;

(b) if the applicant is included in such a list, of the details prescribed for the purposes of section 113C(1)(b) above;

(c) if the applicant is not subject to a specified children's direction, of that fact;

(d) if the applicant is subject to such a direction, of the grounds on which the direction was given and the details prescribed for the purposes of section 113C(1)(d) above.

(3) Subsection (4) applies to an application under section 113A or 113B if—

(a) it is accompanied by an adults' suitability statement,

(b) the registered person requests an urgent preliminary response, and

(c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.

(4) The Secretary of State must notify the registered person either—

(a) that the applicant is not included in a specified adults' list, or

(b) that a criminal record certificate or enhanced criminal record certificate will be issued in due course.

(5) In this section—

"criminal record certificate" has the same meaning as in section 113A;

"enhanced criminal record certificate" has the same meaning as in section 113B;

"children's suitability statement" ", specified children's direction" and "specified children's list" have the same meaning as in section 113C;

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"adults' suitability statement" and "specified adults' list" have the same meaning as in section 113D.

113F **Criminal record certificates: supplementary**

(1) References in sections 113C(2) and 113D(2) to considering the applicant's suitability to be employed, supplied to work, found work or given work in a position falling within section 113C(5) or 113D(4) include references to considering—

(a) for the purposes of Part 10A of the Children Act 1989 (child minding and day care in England and Wales), the applicant's suitability to look after or be in regular contact with children under the age of eight;

(b) for the purposes of that Part of that Act, in the case of an applicant for or holder of a certificate under section 79W of that Act, or a person prescribed under subsection (4) of that section, his suitability to look after children within the meaning of that section;

(c) the applicant's suitability to be registered for child minding or providing day care under section 71 of the Children Act 1989 or Article 118 of the Children (Northern Ireland) Order 1995 (child minding and day care);

(d) for the purposes of section 3 of the Teaching and Higher Education Act 1998 (registration of teachers with the General Teaching Council for England or the General Teaching Council for Wales) or of section 6 of the Teaching Council (Scotland) Act 1965 (registration of teachers with the General Teaching Council for Scotland), the applicant's suitability to be a teacher;

(e) the applicant's suitability to be registered under Part 2 of the Care Standards Act 2000 (establishments and agencies);

(f) the applicant's suitability to be registered under Part 4 of that Act (social care workers);

(g) the applicant's suitability to be registered under Part 1 of the Regulation of Care (Scotland) Act 2001 (applications by persons seeking to provide a care service);

(h) the applicant's suitability to be registered under Part 3 of that Act (social workers and other social service workers);

(i) the applicant's application to have a care service, consisting of the provision of child minding or the day care of children, registered under Part 1 of that Act (care services);

(j) the applicant's suitability to be registered under Part 1 of the Health and Personal Social Services Act (Northern Ireland) 2001 (social care workers);

(k) the applicant's suitability to be registered under Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (regulation of establishments and agencies).

(2) The power to make an order under section 113C or 113D is exercisable by statutory instrument, but no such order may be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

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(3) If the power mentioned in subsection (2) is exercised by the Scottish Ministers, the reference in that subsection to each House of Parliament must be construed as a reference to the Scottish Parliament."

(3) Schedule 14 (which makes consequential amendments to Part 5 of the Police Act 1997 (c. 50)) has effect.

(4) If section 115(1) of the Adoption and Children Act 2002 (c. 38) comes into force before the preceding provisions of this section, the Secretary of State may by order apply Part 5 of the Police Act 1997 subject to such modifications as he thinks necessary or expedient for the purpose of enabling a certificate or statement to be issued under section 113 or 115 of that Act of 1997 in connection with consideration by a court of whether to make a special guardianship order under section 14A of the Children Act 1989 (c. 41).

**Commencement Information**

**I1** S. 163(1)(3) in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(c)**
**I2** S. 163(1)(2) in force at 6.4.2006 for specified purposes for E.W. by S.I. 2006/378, **art. 7(a)**
**I3** S. 163(2) in force at 1.4.2006 for specified purposes for S. by S.S.I. 2006/166, **art. 2(1)(c)**
**I4** S. 163(2) in force at 25.9.2006 for specified purposes for E.W. by S.I. 2006/2182, **art. 2**
**I5** S. 163(2) in force at 12.11.2007 for specified purposes for E.W. by S.I. 2007/3064, **art. 2**
**I6** S. 163(2) in force at 29.2.2008 for specified purposes for E.W. by S.I. 2008/306, **art. 2**
**I7** S. 163(2) in force at 1.4.2008 for N.I. by S.I. 2008/697, **art. 2(a)**
**I8** S. 163(2) in force at 9.3.2015 for specified purposes by S.I. 2015/188, **art. 2**
**I9** S. 163(2) in force at 27.3.2020 for E.W. for specified purposes and immediately after the coming into force of 2020 c. 7, s. 9(8) for E.W. for further specified purposes by S.I. 2020/357, **art. 2**
**I10** S. 163(3) in force at 6.4.2006 for specified purposes for E.W. by S.I. 2006/378, **art. 7(b)**
**I11** S. 163(3) in force at 3.12.2007 for N.I. by S.I. 2007/3341, **art. 2(a)**
**I12** S. 163(4) in force at 7.7.2005, see s. 178(2)

## 164 Criminal records checks: verification of identity

(1) Section 118 of the Police Act 1997 (evidence of identity) is amended as follows.

(2) In subsection (1) after "117" insert " or 120 ".

(3) After subsection (2) insert—

"(2A) For the purpose of verifying evidence of identity supplied in pursuance of subsection (1) the Secretary of State may obtain such information as he thinks is appropriate from data held—

(a) by the United Kingdom Passport Agency;
(b) by the Driver and Vehicle Licensing Agency;
(c) by Driver and Vehicle Licensing Northern Ireland;
(d) by the Secretary of State in connection with keeping records of national insurance numbers;
(e) by such other persons or for such purposes as is prescribed."

**Commencement Information**

**I13** S. 164 in force at 1.7.2005 except to the extent that it applies to S. by S.I. 2005/1521, **art. 3(3)(a)**

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**I14** S. 164 in force at 1.7.2005 for S. by S.S.I. 2005/358, **art. 2(c)**
**I15** S. 164 in force at 1.4.2008 for N.I. by S.I. 2008/697, **art. 2(b)**

## 165 Certain references to police forces

(1) In section 119 of the Police Act 1997 (c. 50) (sources of information),

(a) in subsection (3) for "the prescribed fee" substitute " such fee as he thinks appropriate ";

(b) after subsection (5) insert—

"(6) For the purposes of this section references to a police force include any body mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.

(7) In the case of such a body the reference in subsection (3) to the appropriate police authority must be construed as a reference to such body as is prescribed."

(2) In sections 120A and 120B of that Act (as inserted respectively by section 134(1) of the Criminal Justice and Police Act 2001 (c. 16) and section 70 of the Criminal Justice (Scotland) Act 2003 (asp 7)), after subsection (5) insert—

"(6) For the purposes of this section references to a police force include any body mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly."

(3) In section 124A of that Act (offences relating to disclosure of information) (inserted by section 328 of and paragraphs 1 and 11 of Schedule 35 to the Criminal Justice Act 2003 (c. 44)), after subsection (5) insert—

"(6) For the purposes of this section the reference to a police force includes any body mentioned in subsections (10)(a) to (i) and (11) of section 113B and the reference to a chief officer must be construed accordingly."

**Commencement Information**

**I16** S. 165 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(c)**
**I17** S. 165(1)(a) in force at 1.7.2005 except to the extent that it applies to S. by S.I. 2005/1521, **art. 3(3)(b)**
**I18** S. 165(1)(a)(b) in force at 1.4.2008 for N.I. by S.I. 2008/697, **art. 2(c)**
**I19** S. 165(1)(b)(2)(3) in force at 6.4.2006 for E.W. by S.I. 2006/378, **art. 7(d)**
**I20** S. 165(2)(3) in force at 3.12.2007 for N.I. by S.I. 2007/3341, **art. 2(b)**

## 166 Further amendments to Police Act 1997 as it applies to Scotland

(1) In section 120B of the Police Act 1997 (as inserted by section 70 of the Criminal Justice (Scotland) Act 2003 (asp 7)), in subsection (5) for the words from "the prescribed fee" to the end substitute " such fee as they consider appropriate ".

(2) In section 126 of that Act of 1997 after subsection (2) insert—

"(3) In the application of this Part to Scotland references to the Secretary of State must be construed as references to the Scottish Ministers.

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(4) Subsection (3) does not apply to section 118(2A)(d) or 124A(1) and (2).”

**Commencement Information**

**I21** S. 166(1) in force at 1.4.2006 by S.S.I. 2006/166, **art. 2(1)(c)**

**I22** S. 166(2) in force at 1.7.2005 for S. by S.S.I. 2005/358, **art. 2(d)**

**I23** S. 166(2) in force at 1.7.2005 except to the extent that it applies to S. by S.I. 2005/1521, **art. 3(3)(c)**

**I24** S. 166(2) in force at 3.12.2007 for N.I. by S.I. 2007/3341, **art. 2(c)**

## 167 Part 5 of the Police Act 1997: Northern Ireland

The amendments made by Schedule 35 to the Criminal Justice Act 2003 (c. 44) to Part 5 of the Police Act 1997 (c. 50) extend to Northern Ireland as well as to England and Wales, and accordingly in section 337(5) of that Act of 2003 (extent)—

(a) after “section 315” insert— “ section 328; ”;

(b) after “Schedule 5” insert— “ Schedule 35. ”

## 168 Part 5 of the Police Act 1997: Channel Islands and Isle of Man

(1) Her Majesty may by Order in Council extend any provision of Part 5 of the Police Act 1997 (certificates of criminal records etc.), with such modifications as appear to Her Majesty in Council to be appropriate, to any of the Channel Islands or the Isle of Man.

(2) An order under this section may make such consequential, incidental, supplementary, transitory or transitional provision or savings as Her Majesty in Council thinks appropriate.

**Commencement Information**

**I25** S. 168 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(aa)**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 71(4)(dac) inserted by 2024 c. 13 s. 328(2)
- s. 71(8) inserted by 2024 c. 13 s. 328(4)

**Commencement Orders yet to be applied to the Serious Organised Crime and Police Act 2005**
Commencement Orders bringing provisions within this Act into force:

- S.I. 2006/2182 art. 3 amendment to earlier commencing SI 2006/1871