

2012 No. 86

CRIMINAL LAW

**The Police Act 1997 (Criminal Records) (Amendment)
Regulations (Northern Ireland) 2012**

Made - - - - - *29th February 2012*

Coming into operation - - - - - *2nd April 2012*

The Department of Justice makes the following Regulations in exercise of the powers conferred by sections 113B(9), 120ZA(1) and (2), 120AA(1), and 125(1) and (5) of the Police Act 1997(a) as modified by sections 126A of that Act(b).

Citation and commencement

1. These Regulations may be cited as the Police Act 1997 (Criminal Records) (Amendment) Regulations (Northern Ireland) 2012, and shall come into operation on 2nd April 2012.

Amendment of the Police Act 1997 (Criminal Records) (Registration) Regulations (Northern Ireland) 2007

2.—(1) The Police Act 1997 (Criminal Records) (Registration) Regulations (Northern Ireland) 2007(c) are amended as follows—

(2) In Regulation 7(a), (b) and (c) for “at least 15 days prior to the end of the month following” in each place it appears substitute “not more than 30 days after”.

(3) After Regulation 9 insert—

“Refusal to register; minimum number of applications—

9A. The Department of Justice may, in the case of an application for registration under section 120(2) of the 1997 Act, refuse to register a person who in the opinion of the Department is likely to countersign fewer than 20 applications in any period of twelve months.”

(4) Regulation 11 and the Schedule are omitted.

(a) 1997 c.50; section 113B was inserted by 163(2) of the Serious Organised Crime and Police Act 2005; sections 120ZA and 120AA were inserted by section 328 of, and paragraph 1, 7, and 9 of Schedule 35 to, the Criminal Justice Act 2003.
(b) Section 126A was inserted by Article 12 of and paragraphs 38 of Schedule 14 to S.I. 2010/976.
(c) S.I. 2007/3283; the Secretary of State’s functions under these Regulations are transferred to the Department of Justice by Article 17 of S.I. 2010/976.

Amendment of the Police Act 1997 (Criminal Records) (Disclosure) Regulations 2008

3.—(1) The Police Act 1997 (Criminal Records) (Disclosure) Regulations 2008^(a) are amended as follows—

(2) In Regulation 8(1)(a)(ii) for “and” substitute “or”.

(3) For Regulation 8(1)(b) substitute—

“(b) where it appears to the Department of Justice that information is held by a police force in Great Britain in relation to the applicant—

(i) in the record of conviction and cautions held for the use of police forces generally; or

(ii) other than in that record,

the police force which appears to be holding that information.”

(4) Regulation 8(2) is omitted.

Sealed with the Official Seal of the Department of Justice

David Ford
Minister of Justice

29th February 2012

(a) S.I. 2008/542 as amended by S.I. 2009/1798, 2009/2495, 2009/3324, and SR 2010/229; the Secretary of State’s functions under these Regulations are transferred to the Department of Justice by Article 17 of S.I. 2010/976

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Act 1997 (Criminal Records) (Registration) Regulations (Northern Ireland) 2007 (“the 2007 Regulations”) and the Police Act 1997 (Criminal Records) (Disclosure) Regulations 2008 (“the 2008 Regulations”).

The 2007 Regulations make provision about the registration of registered persons who countersign applications for criminal record certificates and enhanced criminal record certificates. These Regulations amend the 2007 Regulations in three respects.

Regulation 2(2) provides that fees are now due not more than 30 days after the date of the invoice. Previously the fees under the 2007 Regulations were due at least 15 days before the end of the month following the date of invoice.

Regulation 2(3) inserts a new condition attached to registration in respect of the number of applications likely to be countersigned in any period of twelve months. It enables the Department of Justice to refuse to include a person on the register if it considers that person is likely to countersign fewer than twenty applications in any period of twelve months. By virtue of section 120AA of the Police Act 1996 the Department will also now be able, subject to section 120AB of that Act, to suspend registration or remove a person from the register if the person has countersigned fewer than twenty applications in a period of twelve months.

Regulation 2(4) revokes the requirement to apply for registration in a prescribed form. Under section 125B of the Police Act 1997 (inserted by section 97(1) of the Policing and Crime Act 2009) the Department of Justice may now determine the form, manner and content of an application. Forms for registration and application, and accompanying guidance on the use of these forms, may be downloaded from the AccessNI website.

Regulation 3 amends Regulation 8 of the 2008 Regulations to change the definition of “relevant police force” for the purpose of an enhanced disclosure.

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