
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation certain provisions of the Justice Act (Northern Ireland) 2015 (c.9 (N.I.)) (“the Act”).

The provisions of the Act set out in Article 2 come into operation on 2nd November 2015.

Sections 37 to 40, 44, 45, 47 and Schedule 5 relate to the operations at AccessNI under the Part V of the Police Act 1997 (c.50) and are all contained in Part 5 of the Act, which introduces a number of improvements to streamline the arrangements for, and additional protections relating to, the disclosure of criminal record checks.

The provisions change the current system of issuing two certificates for standard and enhanced checks (one to the Registered Body and the other to the applicant), to a system of issuing a single certificate to the applicant only (section 37); provide that criminal record checks should not be carried out for those under 16 years of age, except in certain prescribed circumstances and provide that an individual under the age of 18 applying for registration must satisfy the Department of Justice that there is good reason for being registered (section 38); sets out additional grounds for refusing an application to be registered (section 39) and make a number of changes relating to the disclosure of “relevant information” as part of a criminal record check, including making provision for statutory guidance – which must be published – to assist police in deciding what information should be released: for the establishment of an independent representation process for those who wish to dispute “relevant information” provided by a chief officer of police (section 40): and to enable the Department to be asked to check the accuracy of a certificate (section 40).

Section 44 modernises arrangements for the disclosure of criminal records by allowing for electronic applications. Section 45 allows for the exchange of information between AccessNI and the Disclosure and Barring Service for barring purposes.

Section 47 allows for the consequential amendments in Schedule 5 to come into operation to give effect to the above provisions.

Section 46 amends Article 29 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 No. 1341 (N.I. 12)) to provide a statutory footing for the recording of cautions and other diversionary disposals on the criminal history database.

Finally, sections 66, 67 and 69 are commenced to the extent necessary for the purpose of making regulations in relation to the new Violent Offences Prevention Order provisions in Part 8 of the Act.