

2015 No. 358 (C. 30)

JUSTICE

The Justice (2015 Act) (Commencement No. 3) Order (Northern Ireland) 2015

Made - - - - *12th October 2015*

The Department of Justice, in exercise of the powers conferred by sections 106(2) of the Justice Act (Northern Ireland)(a), makes the following Order:

Citation

1.—(1) This Order may be cited as the Justice (2015 Act) (Commencement No. 3) Order (Northern Ireland) 2015.

(2) In this Order, “the 2015 Act” means the Justice Act (Northern Ireland) 2015.

Provisions coming into operation on 2nd November 2015

2. The day appointed for the coming into operation of the following provisions of the 2015 Act is 2nd November 2015—

- (a) section 37(1) (restriction on information provided to certain persons);
- (b) section 37(2) (procedure for certain cancellations or suspensions of registration) to the extent necessary to bring into operation section 120AC (registered persons: information on the progress of an application) of the Police Act 1997(b);
- (c) section 38 (minimum age for applicants for certificates or to be registered);
- (d) section 39 (additional grounds for refusing an application to be registered);
- (e) section 40 (enhanced criminal record certificates: additional safeguards);
- (f) section 44 (electronic transmission of applications);
- (g) section 45 (disclosures by Department of Justice to Disclosure and Barring Service);
- (h) section 46 (inclusion of cautions and other divisionary disposals in criminal records);
- (i) section 47 (consequential amendments);
- (j) section 66(2)(d) and (3)(d) (notification requirements: changes) for the purposes of making regulations;
- (k) section 67(5)(a) (notification requirements: periodic notification) for the purposes of making regulations;
- (l) section 69(2) and (3) (notification requirements: travel outside the United Kingdom) for the purpose of making regulations;
- (m) in Schedule 5 (amendments: criminal records)—

(a) 2015 c.9 (N.I.).

(b) 1997 c.50.

- (i) paragraphs 1 to 5, 10 to 14, 17 and 20;
- (ii) paragraph 7(1) in so far as it brings into operation sub-paragraphs (2) and (4);
- (iii) paragraph 8(1) in so far as it brings into operation sub-paragraph (3);
- (iv) paragraph 9(1) in so far as it brings into operation sub-paragraphs (2), (5) and (6);
- (v) paragraph 15(1) in so far as it brings into operation sub-paragraph (4);
- (vi) paragraph 16(1) in so far as it brings into operation sub-paragraph (5);
- (vii) paragraph 18 to the extent necessary to bring into operation section 120AC(1); and
- (viii) paragraph 19 to the extent necessary to bring into operation section 120AC.

Sealed with the Official Seal of the Department of Justice on 12th October 2015



David Ford
Minister of Justice

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.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Justice Act (Northern Ireland) 2015 have been brought into operation by a Commencement Order before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.R. No.</i>
Sections 28, 29 and 31 to 35	1st September 2015	2015 No. 320 (C.26)
Sections 65(2)(h) and 69(1)	1st September 2015	2015 No. 324 (C.27)
Sections 6(2) and (3) and 95	30th September 2015	2015 No. 324 (C.27)

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