

Executive Note
The Police Act 1997 Amendment (Scotland) Order 2006 (SSI 2006/draft)

The above Order is made by Scottish Ministers in exercise of the powers conferred on them by section 173(1)(a) and 173(5)(b)(ii) and (iii) of the Serious Organised Crime and Police Act 2005. The Order is subject to affirmative resolution procedure.

Policy Objectives

A challenge faced by the Scottish Executive is to promote electronic alternatives to existing paper-based methods of working. Disclosure Scotland carry out criminal record checks on behalf of Scottish Ministers under Part 5 of the Police Act (“the 1997 Act”). The first purpose of this Order is to amend Part 5 of the 1997 Act to ensure that electronic forms are available for all levels of applications that are made to Disclosure Scotland.

The 1997 Act has been amended by the Serious Organised Crime and Police Act 2005 (“the 2005 Act”) and, once commenced, will make electronic forms available for applications made under sections 113A and 113B of the 1997 Act for the standard and the enhanced disclosure respectively. This amendment therefore mirrors the changes made by the 2005 Act, and ensures that regulations may be made making it possible to submit applications electronically for

- basic disclosures (section 112(1)),
- standard disclosures relating to Crown employment (section 114(1)), and
- enhanced disclosures relating to judicial appointments and Crown employment (section 116(1)).

The second purpose is to ensure that regulations may be made prescribing the manner in which the fee for those three types of disclosure is to be payable. The 2005 Act amended sections 113A and 113B of the 1997 Act so as to enable the manner in which the fee is to be paid to be prescribed. This Order ensures that sections 112(1), 114(1) and 116(1) contain a similar provision.

The third purpose is to clarify the meaning of “police force” in section 120A(6). Subsection (6) was inserted into the 1997 Act by the 2005 Act. At present, the subsection does not make it clear that the extension of the references to “police force” relates to the provision affecting forces in England, Wales and Northern Ireland. Section 120A impacts differently on Scottish police forces.

The fourth and final purpose of the Order is to correct 2 minor typographical errors in the amendments to the 1997 Act inserted by the 2005 Act. The first is at section 113C(3)(e) and second at section 125(6). Similar corrections are being made in England and Wales.

Consultation

The proposals make minor technical changes to Part 5 of the 1997 Act. As a result there has not been widespread consultation about these proposals. Officials have met representatives from Disclosure Scotland, the Central Registered Body Scotland, CoSLA and Youthlink Scotland who expressed positive views that electronic applications would reduce errors when completing the form and contribute to a reduction in handling times during application processing.

Financial Effects

This Order will require some system changes at Disclosure Scotland but these costs should be recovered from the efficiency gains generated by using the electronic applications. As access to the electronic application form will be web-based, there should not be additional costs to users of the Disclosure Scotland service. The paper-based form will remain available for all types of disclosure applications.

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