

2002 No. 217

POLICE

**The Police Act 1997 (Enhanced Criminal Record
Certificates) (Protection of Vulnerable Adults) (Scotland)
Regulations 2002**

Made *2nd May 2002*

Coming into force *3rd May 2002*

The Scottish Ministers, in exercise of the powers conferred by section 115(4) of the Police Act 1997^(a) hereby make the following Regulations, a draft of which has, in accordance with section 125(3) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) (Scotland) Regulations 2002 and shall come into force on 3rd May 2002.

(2) These Regulations extend to Scotland only.

Definition of vulnerable adult

2.—(1) In these Regulations “vulnerable adult” means a person aged 18 or over who in consequence of a condition of a type listed in paragraph (2) has a disability of a type listed in paragraph (3) and who is receiving services of a type listed in paragraph (4).

(2) The types of condition referred to in paragraph (1) are—

- (a) a learning or physical disability;
- (b) a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; or
- (c) a reduction in physical or mental capacity.

(3) The types of disability referred to in paragraph (1) are—

- (a) a dependency upon others in the performance of, or a requirement for assistance in the performance of, basic physical functions;
- (b) severe impairment in the ability to communicate with others; or
- (c) impairment in the ability of a person to protect themselves from assault, abuse or neglect.

(4) The types of services referred to in paragraph (1) are—

- (a) care home services;
- (b) personal care or nursing or support to live independently at home;
- (c) any services provided by an independent hospital, independent clinic, independent medical agency or health body;
- (d) social care services; or

^(a) 1997 c.50; to which there are amendments which are not relevant to the subject matter of these Regulations. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(e) any services provided in an establishment catering for a person with learning difficulties.

(5) In this regulation “care home services”, “independent clinic”, “independent hospital”, “independent medical agency” and “health body” have the same meanings as in the Regulation of Care (Scotland) Act 2001(a).

Positions specified for the purposes of section 115(4) of the Police Act 1997

3. A position is specified for the purposes of section 115(4) (enhanced criminal record certificates) of the Police Act 1997 if it is of a kind which enables a person in the course of his or her duties to have regular contact with a vulnerable adult.

R SIMPSON

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2nd May 2002

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 115 of the Police Act 1997 (“the Act”) provides for the issue by the Scottish Ministers of an enhanced criminal record certificate. Application for such a certificate must be accompanied by a statement by a person registered under section 120 of the Act that the certificate is required for the purpose of an exempted question (defined at section 113(5) of the Act) in the course of considering the applicant’s suitability for a position within section 115(3) or (4) or for a purpose relating to any of the matters listed at section 115(5). These Regulations specify the positions within section 115(4) of the Act. Regulation 3 provides that a position is within section 115(4) if it is of a kind which enables a person to have regular contact with a vulnerable adult. The definition of “vulnerable adult” is set out in regulation 2.

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