Police Act 1997

1997 CHAPTER 50

PART V

CERTIFICATES OF CRIMINAL RECORDS, &C.

Modifications etc. (not altering text)
C1 Pt. 5 (ss. 112-127) explained (prosp) by 1998 c. 29, **s. 56(4)**

112 Criminal conviction certificates.

(1) The Secretary of State shall issue a criminal conviction certificate to any individual who—

(a) makes an application in the prescribed form, and

(b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.

(2) A criminal conviction certificate is a certificate which—

(a) gives the prescribed details of every conviction of the applicant which is recorded in central records, or

(b) states that there is no such conviction.

(3) In this section—

"central records" means such records of convictions held for the use of police forces generally as may be prescribed;

"conviction" means a conviction within the meaning of the [M1]Rehabilitation of Offenders Act 1974, other than a spent conviction.

(4) Where an applicant has received a criminal conviction certificate, the Secretary of State may refuse to issue another certificate to that applicant during such period as may be prescribed.

Status: *Point in time view as at 31/07/2002.*
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Commencement Information

I1 S. 112 not in force at Royal Assent, see s. 135(1)

Marginal Citations

M1 1974 c. 53.

113 Criminal record certificates.

(1) The Secretary of State shall issue a criminal record certificate to any individual who—

(a) makes an application under this section in the prescribed form countersigned by a registered person, and

(b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.

(2) An application under this section must be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.

(3) A criminal record certificate is a certificate which—

(a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records, or

(b) states that there is no such matter.

[[F1](3A) If an application under this section is accompanied by a statement by the registered person that the certificate is required for the purpose of considering the applicant's **[**[F2]suitability to be employed, supplied to work, found work or given work in**]** a position (whether paid or unpaid) within subsection (3B), **[**[F3]or his suitability to adopt a child,**]** the criminal record certificate shall also state—

(a) whether the applicant is included **[**[F4]in—

(i) the list kept under section 1 of the [M2]Protection of Children Act 1999;

(ii) the list kept for the purposes of regulations made under section 218(6) of the [M3]Education Reform Act 1988 ("the 1988 Act list"); or

(iii) any list kept by the Secretary of State or the National Assembly for Wales of persons disqualified under section 470 or 471 of the Education Act 1996 ("the 1996 Act list"); and

(b) if he is included in any of those lists, such details of his inclusion as may be prescribed, including—

(i) in the case of the 1988 Act list, the grounds on which he is so included; or

(ii) in the case of the 1996 Act list, the grounds on which he was disqualified under section 470 or 471.**]**

(3B) A position is within this subsection if it is—

(a) a child care position within the meaning of the Protection of Children Act 1999;

(b) a position employment or further employment in which may be prohibited or restricted by regulations made under subsection (6) of section 218 of the [M4]Education Reform Act 1988;

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(c) a position such that the holder's access to persons aged under 19 may be prohibited or restricted by regulations under subsection (6A) of that section; or

(d) a position of such other description as may be prescribed;

and the reference to employment or further employment in paragraph (b) shall be construed in accordance with subsection (13) of that section.**]**

[[F5](3E) The references in subsections (3A) and (3C) to suitability to be employed, supplied to work, found work or given work in a position falling within subsection (3B) or (3D) include references to suitability to be registered—

(a) under Part II of the Care Standards Act 2000 (establishments and agencies);

(b) under Part IV of that Act (social care workers); or

(c) for child minding or providing day care under Part XA of the [M5]Children Act 1989, or under section 71 of that Act or Article 118 of the [M6]Children (Northern Ireland) Order 1995 (child minding and day care).**]**

(4) The Secretary of State shall send a copy of a criminal record certificate to the registered person who countersigned the application.

(5) In this section—

"central records" means such records of convictions and cautions held for the use of police forces generally as may be prescribed;

"exempted question" means a question in relation to which section 4(2)(a) or (b) of the [M7]Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4);

"relevant matter" means—

(i) a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction, and

(ii) a caution.

Textual Amendments

F1 S. 113(3A)(3B) inserted (E.W.N.I.) (12.3.2002 for E.W., otherwise prosp.) by 1999 c. 14, ss. 8(1), 14(2); S.I. 2002/1436, **art. 2**

F2 Words in s. 113(3A) substituted (2.7.2001 (E.), 1.4.2002 (W.) and otherwise prosp.) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 25(1); S.I. 2001/2041, art. 2(1)(d)(i) (with transitional provisions and savings in art. 3, Sch.); S.I. 2002/920, **art. 3(3)(d)** (subject to art. 3(2)(4)-(10), Schs. 1-3)

F3 Words in s. 113(3A) inserted (18.3.2002 for E.W., otherwise prosp.) by 2000 c. 14, ss. 104(2)(a), 122; S.I. 2002/629, **art. 2(2)(b)(ii)**

F4 S. 113(3A)(a)(i)-(iii)(b) and word substituted (18.3.2002 for E.W., otherwise prosp.) for s. 113(3A)(b) and words by 2000 c. 14, ss. 102(1), 122; S.I. 2002/629, **art. 2(2)(a)**

F5 S. 113(3E) inserted (18.3.2002 (E.W.) for certain purposes, 1.4.2002 (E.W.) for certain further purposes and otherwise prosp.) by 2000 c. 14, ss. 104(2)(b), 122; S.I. 2002/629, **art. 2(2)(b)(iii)(3)(b)**

Commencement Information

I2 S. 113 partly in force; s. 113 not in force at Royal Assent, see s. 135(1); s. 113 in force for E.W. at 1.3.2002 and in force for S. at 25.4.2002 by S.I. 2002/413, **art. 2** and S.S.I. 2002/124, **art. 4**

Marginal Citations

M2 1999 c. 14.

M3 1988 c. 40.

M4 1988 c.40.

Status: *Point in time view as at 31/07/2002.*
Changes to legislation: *Police Act 1997, Part V is up to date with all changes known to be in force on or before 22 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

M5 1989 c. 41.
M6 S.I. 1995/755 (N.I. 2).
M7 1974 c. 53.

114 Criminal record certificates: Crown employment.

(1) The Secretary of State shall issue a criminal record certificate to any individual who—
  (a) makes an application under this section in the prescribed form, and
  (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.

(2) An application under this section must be accompanied by a statement by a Minister of the Crown that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant's suitability for an appointment by or under the Crown.

(3) Section 113(3) to (5) shall apply in relation to this section with any necessary modifications.

Commencement Information
I3 S. 114 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 114 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

115 Enhanced criminal record certificates.

(1) The Secretary of State shall issue an enhanced criminal record certificate to any individual who—
  (a) makes an application under this section in the prescribed form countersigned by a registered person, and
  (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.

(2) An application under this section must be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question asked—
  (a) in the course of considering the applicant's suitability for a position (whether paid or unpaid) within subsection (3) or (4), **[**[F6]or**]**
  (b) for a purpose relating to any of the matters listed in subsection (5).

  [[F7]or
  (c) in relation to an individual to whom subsection (6C), (6D) or (6E) applies.**]**

(3) A position is within this subsection if it involves regularly caring for, training, supervising or being in sole charge of persons aged under 18.

(4) A position is within this subsection if—
  (a) it is of a kind specified in regulations made by the Secretary of State, and
  (b) it involves regularly caring for, training, supervising or being in sole charge of persons aged 18 or over.

(5) The matters referred to in subsection (2)(b) are—

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(a) a certificate for the purposes of sections 19 or 27(1) or (5) of the [M8]Gaming Act 1968 (gaming);

(b) a certificate of consent, or a licence, for any purpose of Schedule 2 to that Act (licences);

(c) registration or certification in accordance with Schedule 1A, 2 or 2A to the [M9]Lotteries and Amusements Act 1976 (societies, schemes and lottery managers);

(d) a licence under section 5 or 6 of the [M10]National Lottery etc. Act 1993 (running or promoting lotteries);

(e) **[**[F8]registration under section 71 of the [M11]Children Act 1989**][**[F9]registration for child minding or providing day care under Part XA of that Act or registration under**]** Article 118 of the [M12]Children (Northern Ireland) Order 1995 (child minding and day care);

[[F10](ea) registration under Part II of the Care Standards Act 2000 (establishments and agencies);

(eb) registration under Part IV of that Act (social care workers);**]**

[[F11](ee) registration under the Regulation of Care (Scotland) Act 2001 (asp 8) of a care service (as defined in section 2(1) of that Act);

(ef) registration under Part 3 of that Act of a social worker or other social service worker ("social worker" and "social service worker" having the same meanings as in that Act).**]**

(f) the placing of children with foster parents in accordance with any provision of, or made by virtue of, the Children Act 1989 or the [M13]Children (Northern Ireland) Order 1995 or the exercise of any duty under or by virtue of section 67 of that Act or Article 108 of that Order (welfare of privately fostered children);

(g) the approval of any person as a foster carer by virtue of section 5(2), (3) and (4) of the [M14]Social Work (Scotland) Act 1968, the exercise by a local authority of their functions under the [M15]Foster Children (Scotland) Act 1984 or the placing of children with foster parents by virtue of section 70 of the [M16]Children (Scotland) Act 1995 (disposal of referral by children's hearing).

[[F12](h) a decision made by an adoption agency within the meaning of section 11 of the [M17]Adoption Act 1976 as to a person's suitability to adopt a child.**]**

(6) An enhanced criminal record certificate is a certificate which—

(a) gives—

(i) the prescribed details of every relevant matter relating to the applicant which is recorded in central records, and

(ii) any information provided in accordance with subsection (7), or

(b) states that there is no such matter or information.

[[F13](6A) If an application under this section is accompanied by a statement by the registered person that the certificate is required for the purpose of considering the applicant's suitability for a position (whether paid or unpaid) falling within subsection (3B) of section 113, **[**[F14]or his suitability to adopt a child,**]** the enhanced criminal record certificate shall also state—

(a) whether the applicant is included **[**[F15] in—

(i) the list kept under section 1 of the [M18]Protection of Children Act 1999;

(ii) the list kept for the purposes of regulations made under section 218(6) of the [M19]Education Reform Act 1988 ("the 1988 Act list"); or

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(iii) any list kept by the Secretary of State or the National Assembly for Wales of persons disqualified under section 470 or 471 of the [M20]Education Act 1996 ("the 1996 Act list"); and

(b) if he is included in any of those lists, such details of his inclusion as may be prescribed, including—

(i) in the case of the 1988 Act list, the grounds on which he is so included; or

(ii) in the case of the 1996 Act list, the grounds on which he was disqualified under section 470 or 471.**]]**

[[F16](6C) This subsection applies to an individual included or seeking inclusion in any list prepared for the purposes of Part 2 of the National Health Service Act 1977 (c. 49) of—

(a) medical practitioners undertaking to provide general medical services,

(b) persons undertaking to provide general dental services,

(c) persons undertaking to provide general ophthalmic services, or

(d) persons undertaking to provide pharmaceutical services.

(6D) This subsection applies to an individual who is—

(a) a director of a body corporate included or seeking inclusion in a list referred to in subsection (6C)(b) or (c),

(b) a member of a limited liability partnership included or seeking inclusion in a list referred to in subsection (6C)(c),

(c) a member of the body of persons controlling a body corporate (whether or not a limited liability partnership) included or seeking inclusion in a list referred to in subsection (6C)(d).

(6E) This subsection applies to an individual included or seeking inclusion in any list prepared by a Health Authority under—

(a) section 28DA of the National Health Service Act 1977 or section 8ZA of the National Health Service (Primary Care) Act 1997 (lists of persons who may perform personal medical services or personal dental services), or

(b) section 43D of the 1977 Act (supplementary lists),

and to an individual included or seeking inclusion in any list corresponding to a list referred to in paragraph (a) prepared by a Health Authority by virtue of regulations made under section 41 of the Health and Social Care Act 2001 (which provides for the application of enactments in relation to local pharmaceutical services).**]**

(7) Before issuing an enhanced criminal record certificate the Secretary of State shall request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—

(a) might be relevant for the purpose described in the statement under subsection (2), and

(b) ought to be included in the certificate.

(8) The Secretary of State shall also request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—

(a) might be relevant for the purpose described in the statement under subsection (2),

(b) ought not to be included in the certificate, in the interests of the prevention or detection of crime, and

(c) can, without harming those interests, be disclosed to the registered person.

(9) The Secretary of State shall send to the registered person who countersigned an application under this section—

(a) a copy of the enhanced criminal record certificate, and

(b) any information provided in accordance with subsection (8).

(10) In this section—

"central records", "exempted question" and "relevant matter" have the same meaning as in section 113; and

"relevant police force", in relation to an application under this section, means a police force which is a relevant police force in relation to that application under regulations made by the Secretary of State.

Textual Amendments

F6 Word in s. 115(2)(a) repealed (E.W.) (1.4.2002 for E., 1.7.2002 for W.) by 2001 c. 15, ss. 19(2)(a), 67(2), Sch. 6 Pt. 1 (with ss. 64(9), 65(4)); S.I. 2002/1095, **art. 2(3)**, Sch. (with art. 3); S.I. 2002/1475, **art. 2(1)**, Sch. Pt. 1

F7 S. 115(2)(c) and preceding word inserted (E.W.) (1.4.2002 for E., 1.7.2002 for W.) by 2001 c. 15, s. 19(2)(b) (with ss. 64(9), 65(4)); S.I. 2002/1095, **art. 2(3)**, Sch. (with art. 3); S.I. 2002/1475, **art. 2(1)**, Sch. Pt. 1

F8 Words in s. 115(5)(e) repealed (S.) (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 21(a); S.S.I. 2002/162, **art. 2(f)(h)** (subject to arts. 3-13)

F9 Words in s. 115(5)(e) substituted (2.7.2001 for E., otherwise prosp.) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 25(2)(a)**; S.I. 2001/2041, **art. 2(2)(d)(i)** (with transitional provisions and savings in art. 3, Sch.)

F10 S. 115(5)(ea)(eb) inserted (1.4.2002 (E.W.) for certain purposes and otherwise prosp.) by 2000 c. 14, ss. 104(3)(a)(i), 122; S.I. 2002/629, **art. 2(3)(c)**

F11 S. 115(5)(ee)(ef) inserted (S.) (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 21(b); S.S.I. 2002/162, **art. 2(f)(h)** (subject to arts. 3-13)

F12 S. 115(5)(h) inserted (18.3.2002 for E.W., otherwise prosp.) by 2000 c. 14, ss. 104(3)(a)(ii), 122; S.I. 2002/629, **art. 2(2)(b)(iv)**

F13 S. 115(6A) inserted (E.W.N.I.) (12.3.2002 for E.W., otherwise prosp.) by 1999 c. 14, ss. 8(2), 14(2); S.I. 2002/1436, **art. 2**

F14 Words in s. 115(6A) inserted (18.3.2002 for E.W., otherwise prosp.) by 2000 c. 14, ss. 104(3)(b), 122; S.I. 2002/629, **art. 2(2)(b)(v)**

F15 S. 115(6A)(a)(i)-(iii)(b) and word substituted (18.3.2002 for E.W., otherwise prosp.) for s. 115(6A)(b) and words by 2000 c. 14, ss. 102(2), 122; S.I. 2002/629, **art. 2(2)(a)**

F16 S. 115(6C)-(6E) inserted (E.W.) (1.4.2002 for E., 1.7.2002 for W.) by 2001 c. 15, s. 19(3) (with ss. 64(9), 65(4)); S.I. 2002/1095, **art. 2(3)**, Sch. (with art. 3); S.I. 2002/1475, **art. 2(1)**, Sch. Pt. 1

Commencement Information

I4 S. 115 partly in force; s. 115 not in force at Royal Assent, see s. 135(1); s. 115 in force for E.W. at 1.3.2002 by S.I. 2002/413, **art. 2**; s. 115(4) in force for S. at 11.3.2002 by S.S.I. 2002/124, **art. 3** and s. 115 otherwise in force for S. at 25.4.2002 by S.S.I. 2002/124, **art. 4**

Marginal Citations

M8 1968 c. 65.

M9 1976 c. 32.

M10 1993 c. 39.

M11 1989 c. 41.

M12 S.I. 1995/755 (N.I. 2).

M13 S.I. 1995/755 (N.I. 2).

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M14 1968 c. 49.
M15 1984 c. 56.
M16 1995 c. 36.
M17 1976 c. 36.
M18 1999 c. 14.
M19 1988 c. 40.
M20 1996 c. 56.

116 Enhanced criminal record certificates: judicial appointments and Crown employment.

(1) The Secretary of State shall issue an enhanced criminal record certificate to any individual who—
  (a) makes an application under this section in the prescribed form, and
  (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.

(2) An application under this section must be accompanied by a statement by a Minister of the Crown, or a person nominated by a Minister of the Crown, that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant's suitability for—
  (a) a judicial appointment, or
  (b) an appointment by or under the Crown to a position to which subsection (3) or (4) of section 115 applies.

(3) Section 115(6) to (10) shall apply in relation to this section with any necessary modifications.

Commencement Information
I5 S. 116 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 116 in force at 25.4.2002 for S. by S.S.I. 2002/124, art. 4

117 Disputes about accuracy of certificates.

(1) Where an applicant for a certificate under any of sections 112 to 116 believes that the information contained in the certificate is inaccurate he may make an application in writing to the Secretary of State for a new certificate.

(2) The Secretary of State shall consider any application under this section; and where he is of the opinion that the information in the certificate is inaccurate he shall issue a new certificate.

Commencement Information
I6 S. 117 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 117 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

Status: *Point in time view as at 31/07/2002.*
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118 Evidence of identity.

(1) The Secretary of State may refuse to issue a certificate under this Part, or to consider an application under section 117, unless the application is supported by such evidence of identity as he may require.

(2) In particular, the Secretary of State may refuse to issue a certificate or consider an application unless the applicant—

(a) has his fingerprints taken at such place and in such manner as may be prescribed, and

(b) pays the prescribed fee to such person as may be prescribed.

(3) Regulations dealing with the taking of fingerprints may make provision requiring their destruction in specified circumstances and by specified persons.

(4) Regulations prescribing a fee for the purposes of subsection (2)(b) shall make provision for a refund in cases of an application under section 117 where a new certificate is issued.

Commencement Information

I7 S. 118 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 118 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

119 Sources of information.

(1) Any person who holds records of convictions or cautions for the use of police forces generally shall make those records available to the Secretary of State **[**[F17]for the purpose of enabling him to carry out his functions under this Part in relation to—.

(a) any application for a certificate or for registration; or

(b) the determination of whether a person should continue to be a registered person.**]**

[[F18](1A) Any person who keeps a list mentioned in section 113(3A) or (3C) above shall make the contents of that list available to the Secretary of State for the purpose of enabling him to carry out his functions under this Part in relation to—

(a) any application for a certificate or for registration; or

(b) the determination of whether a person should continue to be a registered person.**]**

(2) Where the chief officer of a police force receives a request under section 115 or 116 he shall comply with it as soon as practicable.

(3) The Secretary of State shall pay to the appropriate police authority, [F19]. . . the prescribed fee for information provided in accordance with **[**[F20]section 120A(4) or subsection (2) of this section**]**.

(4) Any person who holds records of fingerprints for the use of police forces generally shall make those records available to the Secretary of State **[**[F17]for the purpose of enabling him to carry out his functions under this Part in relation to—.

(a) any application for a certificate or for registration; or

(b) the determination of whether a person should continue to be a registered person.**]**

(5) No proceedings shall lie against the Secretary of State by reason of an inaccuracy in the information made available or provided to him in accordance with this section.

Textual Amendments

F17 Words in s. 119(1)(4) substituted (E.W.N.I.) (19.6.2001) by 2001 c. 16, **s. 134(2)(a)**; S.I. 2001/2223, **art. 2(1)(c)**

F18 S. 119(1A) inserted (E.W.N.I.) (19.6.2001) by 2001 c. 16, **s. 134(2)(b)**; S.I. 2001/2223, **art. 2(1)(c)**

F19 Words in s. 119 repealed (3.7.2000) by 1999 c. 29, ss. 325, 423, Sch. 27 para. 112, **Sch. 34 Pt. VII** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**

F20 Words in s. 119(3) substituted (E.W.N.I.) (19.6.2001) by 2001 c. 16, **s. 134(2)(c)**; S.I. 2001/2223, **art. 2(1)(c)**

Commencement Information

I8 S. 119 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 119 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

120 Registered persons. E+W+N.I.

(1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by the Secretary of State for the purposes of this Part.

(2) Subject to **[**[F21]section 120A and**]** regulations under subsection (3), the Secretary of State shall include in the register any person who applies to him in writing to be registered and satisfies the conditions in subsections (4) to (6).

(3) The Secretary of State may make regulations about the maintenance of the register; and regulations may, in particular, provide for—

(a) the information to be included in the register,

[[F22](aa) the nomination, in the case of a body corporate or unincorporate, of the individuals authorised to act for the body in relation to the countersigning of applications under this Part;

[F22](ab) the refusal by the Secretary of State, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept the nomination of a person as so authorised;**]**

(b) the removal from the register of persons who are, in the opinion of the Secretary of State, no longer likely to wish to countersign applications under section 113 or 115, and

(c) the payment of fees.

(4) A person applying for registration under this section must be—

(a) a body corporate or unincorporate,

(b) a person appointed to an office by virtue of any enactment, or

(c) an individual who employs others in the course of a business.

(5) A body applying for registration under this section must satisfy the Secretary of State that it—

(a) is likely to ask exempted questions, or

(b) is likely to countersign applications under section 113 or 115 at the request of bodies or individuals asking exempted questions.

(6) A person, other than a body, applying for registration under this section must satisfy the Secretary of State that he is likely to ask exempted questions.

(7) In this section "exempted question" has the same meaning as in section 113.

Textual Amendments

F21 Words in s. 120(2) inserted (E.W.N.I.) (19.6.2001) by 2001 c. 16, **s. 134(3)**; S.I. 2001/2223, **art. 2(1)(c)**

F22 S. 120(3)(aa)(ab) inserted (E.W.N.I.) (19.6.2001) by 2001 c. 16, **s. 134(4)**; S.I. 2001/2223, **art. 2(1)(c)**

Modifications etc. (not altering text)

C2 This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

Commencement Information

I9 S. 120(3) in force for E.W. at 19.3.2001 and s. 120(1)(2)(4)-(7) in force for E.W. at 1.5.2001 by S.I. 2001/1097, **art. 2**
S. 120(3) in force for S. at 1.1.2002 and s. 120(1)(2)(4)-(7) in force for S. at 1.2.2002 by S.S.I. 2001/482, **art. 2**

120 Registered persons. S

(1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by the Secretary of State for the purposes of this Part.

(2) Subject to regulations under subsection (3), the Secretary of State shall include in the register any person who applies to him in writing to be registered and satisfies the conditions in subsections (4) to (6).

(3) The Secretary of State may make regulations about the maintenance of the register; and regulations may, in particular, provide for—
- (a) the information to be included in the register,
- (b) the removal from the register of persons who are, in the opinion of the Secretary of State, no longer likely to wish to countersign applications under section 113 or 115, and
- (c) the payment of fees.

(4) A person applying for registration under this section must be—
- (a) a body corporate or unincorporate,
- (b) a person appointed to an office by virtue of any enactment, or
- (c) an individual who employs others in the course of a business.

(5) A body applying for registration under this section must satisfy the Secretary of State that it—
- (a) is likely to ask exempted questions, or
- (b) is likely to countersign applications under section 113 or 115 at the request of bodies or individuals asking exempted questions.

(6) A person, other than a body, applying for registration under this section must satisfy the Secretary of State that he is likely to ask exempted questions.

(7) In this section "exempted question" has the same meaning as in section 113.

Extent Information

E1 This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

Commencement Information

I17 S. 120(3) in force at 19.3.2001 for E.W. and s. 120(1)(2)(4)-(7) in force at 1.5.2001 for E.W. by S.I. 2001/1097, **art. 2**
S. 120(3) in force at 1.1.2002 for S. and s. 120(1)(2)(4)-(7) in force at 1.2.2002 for S. by S.S.I. 2001/482, **art. 2**

[F23 120A Refusal and cancellation of registration

(1) The Secretary of State may refuse to include a person in the register maintained for the purposes of this Part if it appears to him that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State's opinion, is not a suitable person to have access to that information.

(2) The Secretary of State may remove a person from the register if it appears to the Secretary of State—
- (a) that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State's opinion, is not a suitable person to have access to that information; or
- (b) that the registration of that person has resulted in information becoming known to such an individual.

F24 (3) In determining for the purposes of this section whether an individual is a suitable person to have access to any information, the Secretary of State may have regard, in particular, to—
- (a) any information relating to that person which concerns a relevant matter;
- (b) whether that person is included in any list mentioned in section 113(3A) or (3C); and
- (c) any information provided to the Secretary of State under subsection (4).

(4) It shall be the duty of the chief officer of any police force to comply, as soon as practicable after receiving it, with any request by the Secretary of State to provide the Secretary of State with information which—
- (a) is available to the chief officer;
- (b) relates to—
  - (i) an applicant for registration;
  - (ii) a registered person; or
  - (iii) an individual who is likely to have access to information in consequence of the countersigning of applications by a particular applicant for registration or by a particular registered person;

  and
- (c) concerns a matter which the Secretary of State has notified to the chief officer to be a matter which, in the opinion of the Secretary of State, is relevant to the determination of the suitability of individuals for having access to the

information that may be provided in consequence of the countersigning of applications under this Part.

(5) In this section "relevant matter" has the same meaning as in section 113.**]**

Textual Amendments

F23 S. 120A inserted (E.W.N.I.) (19.6.2001) by 2001 c. 16, **s. 134(1)**; S.I. 2001/2223, **art. 2(1)(c)**

F24 S. 120A(3) applied (13.8.2001) by S.I. 2001/1194, **reg. 3A(4)** (as inserted by S.I. 2001/2498, **reg. 2(3)**)

121 Performance by constables on central service in Scotland of functions under this Part.

In Scotland a constable engaged on central service (within the meaning of section 38 of the [M21]Police (Scotland) Act 1967) may perform functions under this Part (other than functions under section 114(2), 115(4) or (10), 116(2), 122(1) or (2) or 125) on behalf of the Secretary of State; and without prejudice to the application of subsection (5) of section 119 in respect of any other person performing functions on behalf of the Secretary of State, that subsection shall apply in respect of any constable performing functions by virtue of this section as the subsection applies in respect of the Secretary of State.

Commencement Information

I10 S. 121 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 121 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

Marginal Citations

M21 1967 c. 77.

122 Code of practice.

(1) The Secretary of State shall publish, and may from time to time revise, a code of practice in connection with the use of information provided to registered persons under this Part.

(2) The Secretary of State shall lay before Parliament the code of practice under this section as soon as practicable after publication and after revision.

(3) The Secretary of State may refuse to issue a certificate under section 113 or 115 if he believes that the registered person who countersigned the application—

(a) has failed to comply with the code of practice under this section, or

(b) countersigned at the request of a body which, or individual who, has failed to comply with the code of practice.

Commencement Information

I11 S. 122(1)(2) in force at 19.3.2001 for E.W. by S.I. 2001/1097, art. 2(1); s. 122(3) in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 122(1)(2) in force at 1.1.2002 for S. by S.S.I. 2001/482, art. 2(1); s. 122(3) in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

Status: *Point in time view as at 31/07/2002.*
Changes to legislation: *Police Act 1997, Part V is up to date with all changes known to be in force on or before 22 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

123 Offences: falsification, &c.

(1) A person commits an offence if, with intent to deceive, he—

(a) makes a false certificate under this Part,

(b) alters a certificate under this Part,

(c) uses a certificate under this Part which relates to another person in a way which suggests that it relates to himself, or

(d) allows a certificate under this Part which relates to him to be used by another person in a way which suggests that it relates to that other person.

(2) A person commits an offence if he knowingly makes a false statement for the purpose of obtaining, or enabling another person to obtain, a certificate under this Part.

(3) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

Commencement Information

I12 S. 123 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 123 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

124 Offences: disclosure.

(1) A member, officer or employee of a body registered under section 120 commits an offence if he discloses information provided following an application under section 113 or 115 unless he discloses it, in the course of his duties,—

(a) to another member, officer or employee of the registered body,

(b) to a member, officer or employee of a body at the request of which the registered body countersigned the application, or

(c) to an individual at whose request the registered body countersigned the relevant application.

(2) Where information is provided under section 113 or 115 following an application countersigned at the request of a body which is not registered under section 120, a member, officer or employee of the body commits an offence if he discloses the information unless he discloses it, in the course of his duties, to another member, officer or employee of that body.

(3) Where information is provided under section 113 or 115 following an application countersigned by or at the request of an individual—

(a) the individual commits an offence if he discloses the information unless he discloses it to an employee of his for the purpose of the employee's duties, and

(b) an employee of the individual commits an offence if he discloses the information unless he discloses it, in the course of his duties, to another employee of the individual.

(4) Where information provided under section 113 or 115 is disclosed to a person and the disclosure—

(a) is an offence under this section, or

(b) would be an offence under this section but for subsection (5) or (6)(a), (d), (e) or (f),

the person to whom the information is disclosed commits an offence (subject to subsections (5) and (6)) if he discloses it to any other person.

(5) Subsections (1) to (4) do not apply to a disclosure of information provided in accordance with section 115(8) which is made with the written consent of the chief officer who provided the information.

(6) Subsections (1) to (4) do not apply to a disclosure of information contained in a certificate under section 113 or 115 which is made—

(a) with the written consent of the applicant for the certificate, or

(b) to a government department, or

(c) to a person appointed to an office by virtue of any enactment, or

(d) in accordance with an obligation to provide information under or by virtue of any enactment, or

(e) for the purposes of answering an exempted question (within the meaning of section 113) of a kind specified in regulations made by the Secretary of State, or

(f) for some other purpose specified in regulations made by the Secretary of State.

(7) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale, or to both.

Commencement Information

I13 S. 124 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 124 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

125 Regulations.

(1) Anything authorised or required by any provision of this Part to be prescribed shall be prescribed by regulations made by the Secretary of State.

(2) Regulations under this Part shall be made by statutory instrument.

(3) A statutory instrument which contains (whether alone or with other provisions) regulations made by virtue of section 115(4) shall not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

(4) A statutory instrument to which subsection (3) does not apply shall be subject to annulment pursuant to a resolution of either House of Parliament.

(5) Regulations under this Part may make different provision for different cases.

Commencement Information

I14 S. 125 in force at 19.3.2001 for E.W. by S.I. 2001/1097, **art. 2(1)**
S. 125 in force at 1.1.2002 for S. by S.S.I. 2001/482, **art. 2(1)**

126 Interpretation of Part V.

(1) In this Part—

Status: *Point in time view as at 31/07/2002.*
Changes to legislation: *Police Act 1997, Part V is up to date with all changes known to be in force on or before 22 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"caution" means a caution given to a person in England and Wales or Northern Ireland in respect of an offence which, at the time when the caution is given, he has admitted;

"certificate" means any one or more documents issued in response to a particular application;

"chief officer" means—

(i) a chief officer of police of a police force in England and Wales,

(ii) a chief constable of a police force in Scotland, and

(iii) the Chief Constable of the **[**[F25]Police Service of Northern Ireland**]**;

"government department" includes a Northern Ireland department;

"Minister of the Crown" includes a Northern Ireland department;

"police authority" means—

(i) a police authority for an area in Great Britain or a joint police board (within the meaning of the [M22]Police (Scotland) Act 1967), and

(ii) the **[**[F26]Northern Ireland Policing Board**]**;

"police force" means—

(i) a police force in Great Britain, and

(ii) the **[**[F25]Police Service of Northern Ireland**]** and the **[**[F25]Police Service of Northern Ireland Reserve**]**;

"prescribed" shall be construed in accordance with section 125(1).

(2) In the application of this Part to Northern Ireland, a reference to the [M23]Rehabilitation of Offenders Act 1974, or to a provision of that Act, shall be construed as a reference to the [M24]Rehabilitation of Offenders (Northern Ireland) Order 1978 or, as the case may be, to the corresponding provision of that order.

Textual Amendments

F25 Words in s. 126(1) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(2)(a)(b)**; S.R. 2001/396, art. 2, **Sch.**

F26 Words in s. 126(1) substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 20(3)**; S.R. 2001/396, art. 2, **Sch.**

Commencement Information

I15 S. 126 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 126 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

Marginal Citations

M22 1967 c. 77.

M23 1974 c. 53.

M24 S.I. 1978/1908 (N.I. 27).

127 Saving: disclosure of information and records.

Nothing in sections 112 to 119 shall be taken to prejudice any power which exists apart from this Act to disclose information or to make records available.

Commencement Information

I16 S. 127 in force at 1.3.2002 for E.W. by S.I. 2002/413, **art. 2**
S. 127 in force at 25.4.2002 for S. by S.S.I. 2002/124, **art. 4**

Status:
Point in time view as at 31/07/2002.

Changes to legislation:
Police Act 1997, Part V is up to date with all changes known to be in force on or before 22 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.