



# Police Act 1997

## 1997 CHAPTER 50

### PART V

#### CERTIFICATES OF CRIMINAL RECORDS, &C.

#### 122 Code of practice. **E+W+N.I.**

- (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 <sup>[F1]</sup>, or the discharge of any function by, registered persons under this Part.
- <sup>[F2]</sup>(1A) The reference in subsection (1) to the use of information provided to registered persons under this Part includes a reference to the use of information provided in accordance with section 116A(1) to relevant persons (within the meaning of that section) who are not 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) <sup>[F3]</sup>Subsection (3A) applies if <sup>[F4]</sup>the Secretary of State<sup>[F4]</sup>DBS] thinks that the <sup>[F5]</sup>registered person who countersigned<sup>[F5]</sup>person who acted as the registered person in relation to] an application for a certificate under section 113A or 113B]—
  - (a) has failed to comply with the code of practice under this section, or
  - (b) <sup>[F6]</sup>countersigned<sup>[F6]</sup>acted as the registered person] at the request of a body which, or individual who, has failed to comply with the code of practice.
- <sup>[F7]</sup>(3A) <sup>[F8]</sup>The Secretary of State<sup>[F8]</sup>DBS] may—
  - (a) <sup>[F9]</sup>refuse to issue the certificate;]
  - (b) suspend the registration of the person;
  - (c) cancel the registration of the person.
- (3B) Section 120AB applies if <sup>[F10]</sup>the Secretary of State<sup>[F10]</sup>DBS] proposes to suspend or cancel a person's registration under subsection (3A) above as it applies if <sup>[F11]</sup>he<sup>[F11]</sup>it] proposes to suspend or cancel a person's registration by virtue of section 120AA.]

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### Extent Information

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

### Textual Amendments

- F1** Words in s. 122(1) inserted (E.W.N.I.) (20.1.2009) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), ss. 29\(2\), 65 \(with ss. 51, 57\(3\), 60\(4\), 64\(5\)\); S.I. 2009/39, art. 2\(1\)\(d\)](#)
- F2** S. 122(1A) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 113 \(with s. 97\); S.I. 2013/1180, art. 2\(e\)\(iii\)](#)
- F3** Words in s. 122(3) substituted (E.W.N.I.) (20.1.2009) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), ss. 29\(3\), 65 \(with ss. 51, 57\(3\), 60\(4\), 64\(5\)\); S.I. 2009/39, art. 2\(1\)\(d\)](#)
- F4** Words in s. 122(3) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(t\) \(with Pt. 4\)](#)
- F5** Words in s. 122(3) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\), arts. 1\(1\), 10\(a\)](#)
- F6** Words in s. 122(3)(b) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\), arts. 1\(1\), 10\(b\)](#)
- F7** S. 122(3A)(3B) inserted (E.W.N.I.) (20.1.2009) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\), ss. 29\(4\), 65 \(with ss. 51, 57\(3\), 60\(4\), 64\(5\)\); S.I. 2009/39, art. 2\(1\)\(d\)](#)
- F8** Words in s. 122(3A) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(t\) \(with Pt. 4\)](#)
- F9** S. 122(3A)(a) repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 5 para. 15\(4\), Sch. 9 Pt. 3; S.R. 2015/358, art. 2\(m\)\(v\)](#)
- F10** Words in s. 122(3B) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 37\(t\) \(with Pt. 4\)](#)
- F11** Word in s. 122(3B) substituted (E.W.) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 46 \(with Pt. 4\)](#)

### Commencement Information

- I1** 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](#)
- I2** S. 122 in force at 3.12.2007 for N.I. by [S.I. 2007/3342, art. 2\(f\)](#)

## [<sup>F12</sup>122 Code of practice. **S**

- (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 [<sup>F13</sup>, or the discharge of any function by,] 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 [<sup>F14</sup>113A or 113B][<sup>F15</sup>, or make a disclosure under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14),] if he believes that the registered person who

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countersigned the application [<sup>F16</sup>or, as the case may be, made the declaration in relation to the disclosure request] —

- (a) has failed to comply with the code of practice under this section, or
- (b) countersigned [<sup>F17</sup>or, as the case may be, made the declaration] acted as the registered person at the request of a body which, or individual who, has failed to comply with the code of practice.

[ Where the Scottish Ministers have reason to believe that—

- <sup>F18</sup>(4) (a) a registered person; or
- (b) a body or individual at whose request a registered person
  - [ has countersigned or is likely to countersign an application under <sup>F19</sup>(i) section [<sup>F20</sup>113A or 113B][<sup>F21</sup>; or
  - (ii) has made or is likely to make a declaration in relation to a disclosure request made under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)]

has failed to comply with the code of practice, they may remove the registered person from the register or impose conditions on him as respects his continuing to be listed in the register.]]

#### Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

#### Textual Amendments

- F12** Ss. 124A, 124B inserted (S.) (1.4.2006 for the insertion of s. 124A) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(8)**, 89(2); S.S.I. 2006/168, art. 2
- F13** Words in s. 122(1) inserted (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(7)(a)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F14** Words in s. 122(3) substituted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 11**; S.S.I. 2006/166, **art. 2(1)(e)**
- F15** Words in s. 122(3) inserted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 39(a)(i)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 4)
- F16** Words in s. 122(3) inserted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 39(a)(ii)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 4)
- F17** Words in s. 122(3) inserted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 39(a)(iii)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 4)
- F18** S. 122(4) added (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(7)(b)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F19** S. 122(4)(b)(i): words in s. 122(4)(b) renumbered as s. 122(4)(b)(i) (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 39(b)(i)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 4)
- F20** Words in s. 122(4)(b) substituted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 11**; S.S.I. 2006/166
- F21** S. 122(4)(b)(ii) and word inserted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 39(b)(ii)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 4)

#### Commencement Information

- II** 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**

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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](#)

**12** S. 122 in force at 3.12.2007 for N.I. by [S.I. 2007/3342, art. 2\(f\)](#)

**Status:**

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**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 122(3A)(a) repealed by 2012 c. 9 Sch. 9 para. 114Sch. 10 Pt. 6

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 112(2A) inserted by 2011 c. 24 (N.I.) s. 101
- s. 112(2A) inserted by 2009 c. 26 s. 93 (This amendment not applied to legislation.gov.uk. S. 93 repealed (10.9.2012) without ever being in force by 2012 c. 9, ss. 79(1), 120, Sch. 10 Pt. 6; S.I. 2012/2234, art. 2(cc))
- s. 113(3)(e) words inserted by S.S.I. 2006/50 art. 2(2)
- s. 113(3G) inserted by 2002 c. 32 Sch. 12 para. 14
- s. 113(3G) inserted by 2002 c. 32, Sch. 12 para. 14 (as extended) by 2003 asp 5 s. 12(1)(c)
- s. 113(3EA)(3EB) inserted by S.I. 2003/417 (N.I.) art. 17(4)
- s. 113(3EC)(3ED) inserted by S.I. 2003/417 (N.I.) art. 47(3)
- s. 113(4A) inserted by 2003 c. 44 Sch. 35 para. 3(3)
- s. 113(4A) insertion by 2003 c. 44, Sch. 35 para. 3(3) extended to N.I. by 2005 c. 15 s. 167(a)
- s. 113A(6A)-(6C) inserted by 2011 asp 1 s. 188(b)
- s. 115(5)(ec) inserted by 2002 c. 32 Sch. 12 para. 15(2)
- s. 115(5)(ec) inserted by 2002 c. 32, Sch. 12 para. 15(2) (as extended) by 2003 asp 5 s. 12(1)(c)
- s. 115(5)(ga) inserted by 2001 c. 12 s. 21 (Amendment not applied to legislation.gov.uk. S. 21 repealed (6.4.2006 for E.W.) by 2003 c. 44, Sch. 37 Pt. 11; S.I. 2006/751, art. 2(d))
- s. 115(6BB) inserted by 2002 c. 32 Sch. 12 para. 15(3)
- s. 115(6BB) inserted by 2002 c. 32, Sch. 12 para. 15(3) (as extended) by 2003 asp 5 s. 12(1)(c)
- s. 115(6EA) inserted by S.I. 2003/417 (N.I.) art. 17(5)
- s. 115(6EB) inserted by S.I. 2003/417 (N.I.) art. 47(4)
- s. 115(9A)(9B) inserted by 2003 c. 44 Sch. 35 para. 4(5)
- s. 115(9A)(9B) insertion by 2003 c. 44, Sch. 35 para. 4(5) extended to N.I. by 2005 c. 15 s. 167(a)
- s. 118(2ZA) inserted by 2009 c. 26 s. 95
- s. 118(2ZA) words substituted by S.I. 2012/3006 art. 37(j) (This amendment not applied to legislation.gov.uk. The insertion of s. 118(2ZA) by 2009 c. 26, s. 95 is still prospective)
- s. 121(a) inserted by 2006 asp 10 s. 3(8)(a)

– Sch. 8B para. 102(ea) inserted by [2023 c. 47 s. 3\(2\)](#)