



Policing and Crime Act 2009

2009 CHAPTER 26

PART 8

MISCELLANEOUS

CHAPTER 1

SAFEGUARDING VULNERABLE GROUPS AND CRIMINAL RECORDS

Criminal records etc

93 Criminal conviction certificates to be given to employers

In section 112 of the [Police Act 1997 \(c. 50\)](#) (criminal conviction certificates) after subsection (2) insert—

“(2A) If an application for a criminal conviction certificate states that the certificate is required in connection with employment by, or voluntary work for, a person specified in the application, the Secretary of State must send a copy of the certificate to that person.”

94 Certificates of criminal records etc: right to work information

In the [Police Act 1997](#) after section 113CC insert—

“113CD Immigration information relevant to employment

(1) This section applies where—

- (a) an application for a certificate under section 112, 113A or 113B contains a request for information under this section,

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- (b) in the case of an application for a certificate under section 112, the application contains a statement that the information is sought for the purposes of employment with a person specified in the application, and
 - (c) the applicant pays in the prescribed manner any additional fee prescribed in respect of the application.
- (2) The certificate must state—
- (a) whether according to records held by the Secretary of State the applicant is subject to immigration control, or
 - (b) that records held by the Secretary of State do not show whether the applicant is subject to immigration control.
- (3) If the records show that the applicant is subject to immigration control, the certificate must state—
- (a) whether according to the records the applicant has been granted leave to enter or remain in the United Kingdom, or
 - (b) that the records do not show whether the applicant has been granted leave to enter or remain in the United Kingdom.
- (4) If the records show that the applicant has been granted leave to enter or remain in the United Kingdom, the certificate must state—
- (a) whether according to the records the applicant’s leave to enter or remain in the United Kingdom is current, or
 - (b) that the records do not show whether the applicant’s leave to enter or remain in the United Kingdom is current.
- (5) If the records show that the applicant has been granted leave to enter or remain in the United Kingdom and that it is current, the certificate must also state any conditions to which the leave to enter or remain is subject and which relate to the applicant’s employment.
- (6) A certificate under this section must contain such advice as the Secretary of State thinks appropriate about where to obtain further information about the matters mentioned in subsections (2) to (5).
- (7) For the purposes of this section a person’s leave to enter or remain in the United Kingdom is current unless—
- (a) it is invalid, or
 - (b) it has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise).
- (8) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom.”

95 Criminal conviction certificates: verification of identity

In section 118 of the [Police Act 1997 \(c. 50\)](#) (evidence of identity) after subsection (2) insert—

- “(2ZA) By virtue of subsection (1) the Secretary of State may, in particular, refuse to issue a certificate to a person unless the application is supported by prescribed evidence that the person’s identity has been verified by a third person

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determined by the Secretary of State (whether or not the third person charges a fee for such verification).”

96 Registered persons

- (1) Section 120A of the [Police Act 1997](#) (refusal and cancellation of registration), as inserted by section 134 of the [Criminal Justice and Police Act 2001 \(c. 16\)](#), is amended as follows.
- (2) In subsection (3) (matters to which Secretary of State may have regard in considering suitability of persons likely to have access to information) for paragraph (b) substitute—
 - “(b) any information relating to the person of a kind specified in subsection (3A);”.
- (3) After subsection (3) insert—
 - “(3A) The information is—
 - (a) whether the person is barred from regulated activity;
 - (b) if the person is barred from such activity, such details as are prescribed of the circumstances in which the person became barred;
 - (c) whether the Independent Safeguarding Authority is considering whether to include the person in a barred list in pursuance of paragraph 3, 5, 9 or 11 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006;
 - (d) whether the person is subject to a direction under section 167A of the Education Act 2002 (prohibition on participation in management of independent school).
 - (3B) Subsection (3C) applies if—
 - (a) the Secretary of State receives an application for registration, and
 - (b) it appears to the Secretary of State that the registration is likely to make it possible for information to become available to an individual who the Independent Safeguarding Authority is considering whether to include in a barred list as mentioned in subsection (3A)(c).
 - (3C) The Secretary of State may postpone consideration of the application until the Authority has decided whether to include the individual in the barred list.
 - (3D) Expressions used in subsections (3A) to (3C) and in the Safeguarding Vulnerable Groups Act 2006 have the same meaning in those subsections as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.”
- (4) After subsection (6) insert—
 - “(7) The Secretary of State may by order made by statutory instrument amend subsection (3A) for the purpose of altering the information specified in that subsection.
 - (8) Such an order is subject to annulment in pursuance of a resolution of either House of Parliament.”

97 Criminal records: applications

(1) Before section 126 of the [Police Act 1997 \(c. 50\)](#) insert—

“125B Form of applications

- (1) The Secretary of State may determine the form, manner and contents of an application for the purposes of any provision of this Part.
- (2) A determination may, in particular, impose requirements about the form or manner in which an electronic application is to be signed or countersigned.”
- (2) In the following provisions of that Act omit “in the prescribed manner and form”—
 - section 112(1)(a) (criminal conviction certificates),
 - section 113A(1)(a) (criminal record certificates),
 - section 113B(1)(a) (enhanced criminal record certificates).
- (3) In the following provisions of that Act omit “in the prescribed form”—
 - section 114(1)(a) (criminal record certificates: Crown employment),
 - section 116(1)(a) (enhanced criminal record certificates: judicial appointments and Crown employment).