

2007 No. 3283

CRIMINAL LAW, NORTHERN IRELAND

**The Police Act 1997 (Criminal Records) (Registration)
Regulations (Northern Ireland) 2007**

Made - - - - - *19th November 2007*

Laid before Parliament *26th November 2007*

Coming into force *17th December 2007*

The Secretary of State, in exercise of the powers conferred upon him by sections 120ZA, 120AA and 125 of the Police Act 1997(a) hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Act 1997 (Criminal Records) (Registration) Regulations (Northern Ireland) 2007, and shall come into force on 17th December 2007.

(2) These regulations extend to Northern Ireland.

Interpretation

2. In these Regulations—

“1997 Act” means the Police Act 1997;

“exempted question” means a question in relation to which the Rehabilitation of Offenders (Exceptions) (Northern Ireland) Order 1979(b) applies;

“prescribed purpose” means a purpose prescribed by the Secretary of State under section 113B(2) of the 1997 Act;

“register” means the register maintained by the Secretary of State for the purposes of Part V of the 1997 Act; and

“statutory office holder” means a person appointed to an office by virtue of any enactment.

The register

3.—(1) There shall be included in the register the following information:

- (a) the name and address of each registered person and any telephone or facsimile number or electronic mailing address which has been notified to the Secretary of State for communication purposes;
- (b) the date on which the name of that person was first listed in the register;
- (c) the number assigned to that person on being listed;

(a) 1997 c. 50; sections 120ZA and 120AA were inserted by section 328 of, and paragraphs 1, 7 and 9 of Schedule 35 to, the Criminal Justice Act 2003 (c.44).
(b) S.R. 1979 No. 195 (as amended)

- (d) the nature of the exempted questions, if any, that that person is likely to ask;
- (e) in the case of a registered body—
 - (i) whether that body is likely to countersign applications under section 113A or 113B of the 1997 Act at the request of bodies or individuals asking exempted questions and, if so, the nature of those questions;
 - (ii) the name and address of any individual for the time being nominated in accordance with regulation 4 below as being authorised to act for the body in relation to the countersigning of applications under Part V of the 1997 Act and any telephone or facsimile number or electronic mailing address which has been notified to the Secretary of State for communication purposes;
 - (iii) the date on which the name of that individual was first listed on the register;
 - (iv) the number assigned to that individual on being listed; and
 - (v) a specimen of the signature of that individual;
- (f) in the case of each registered person who is a statutory office holder—
 - (i) the name and address of any individual for the time being nominated in accordance with regulation 4 below as being authorised to act for the statutory office holder in relation to the countersigning of applications under Part V of the 1997 Act and any telephone or facsimile number or electronic mailing address which has been notified to the Secretary of State for communications purposes;
 - (ii) the date on which the name of that individual was first listed on the register;
 - (iii) the number assigned to that individual on being listed; and
 - (iv) a specimen of the signature of that individual;
- (g) in respect of each registered person other than a body, a specimen of any signature which will be used by that person for the purposes of countersigning applications under section 113A or 113B of the 1997 Act; and
- (h) any additional information about the registered person which the Secretary of State may require.

Nomination of authorised individuals

4.—(1) A body or statutory office-holder applying for registration under section 120 of the 1997 Act^(a) shall submit with the application the names of the individuals authorised to act for the body or statutory office-holder in relation to the countersigning of applications under Part V of the 1997 Act.

(2) A registered body and a registered person who is a statutory office-holder shall submit to the Secretary of State the names of any individuals so authorised after the registration of the body or the statutory office-holder, whether or not in substitution for any name previously submitted.

(3) The Secretary of State may refuse to accept, or to continue to accept, the nomination of an individual as so authorised if, in the opinion of the Secretary of State, that individual is not a suitable person to have access to information which has become, or is likely to become, available to him as a result of the registration of the body or the statutory office-holder which nominated him.

(4) In determining for the purposes of this regulation whether an individual is a suitable person to have access to any information, the Secretary of State may have regard, in particular, to the matters specified in section 120A(3) of the 1997 Act^(a).

(5) Where the Secretary of State refuses to accept, or to continue to accept, the nomination of an individual under this regulation, he shall notify the body or the statutory office-holder concerned, and that body or statutory office-holder may submit the name of another individual in substitution.

Fee on application for inclusion in the register

5. The fee payable by a person on application for inclusion in the register shall be £150.

^(a) 1997 c. 50; section 120 was amended by section 134(3) and (4) of the Criminal Justice and Police Act 2001 (c. 16)

Additional fees

6.—(1) There shall be payable by a registered person which is a body a fee of £10 in respect of the second and each subsequent name entered in the register in accordance with regulation 3(e)(ii) above.

(2) There shall be payable by a registered person which is a statutory office-holder a fee of £10 in respect of the second and each subsequent name entered in the register in accordance with regulation 3(f)(i) above.

Conditions attached to registration

7. A person's registration shall be subject to the following conditions:

- (a) the fee payable under regulation 5 following inclusion in the register shall be invoiced to the person by the Secretary of State and payable at least 15 days prior to the end of the month following the invoice date;
- (b) the fee payable under regulation 6(1) or 6(2) in respect of the second and each subsequent name entered in the register shall be invoiced by the Secretary of State to the person and payable at least 15 days prior to the end of the month following the invoice date;
- (c) the fee payable in relation to an application under section 113A or 113B of the 1997 Act which is accompanied by a statement under section 113A(2)(b) or 113B(2)(b) of the 1997 Act shall be invoiced by the Secretary of State and payable at least 15 days prior to the end of the month following the invoice date;
- (d) where a registered person has made a statement under section 113A(2)(b) or 113B(2)(b) of the 1997 Act in relation to an application for a criminal record certificate or an enhanced criminal record certificate, any charges levied in connection with the services it provides under Part V of the 1997 Act shall be—
 - (i) notified in writing to the Secretary of State who may publish details of any such charges in such manner as he thinks fit; and
 - (ii) set out in any documentation the registered person publishes which relates to the services it provides under Part V of the 1997 Act;
- (e) prior to submitting an application for a criminal record certificate or an enhanced criminal record certificate to the Secretary of State, a registered person shall use all reasonable endeavours to ensure that—
 - (i) the mandatory data fields as specified administratively by the Secretary of State are completed on the form which will be prescribed in regulations to be made under Part V of the Police Act 1997 and that the data supplied is accurate;
 - (ii) the certificate is requested for an exempted question or prescribed purpose as the case may be; and
 - (iii) if the application for a criminal record certificate or an enhanced criminal record certificate is made by a volunteer, the applicant falls within the definition of a volunteer as prescribed in regulations to be made under Part V of the Police Act 1997;
- (f) prior to making a statement under section 113A(2)(b) or 113B(2)(b) of the 1997 Act in relation to an application for a criminal record certificate or an enhanced criminal record certificate, a registered person or his authorised agent shall verify the identity of the applicant and in so doing comply with such conditions as the Secretary of State thinks fit and has notified to the registered person in writing;
- (g) where a registered person uses the services of another person to verify the identity of applicants, the registered person shall—
 - (i) ensure the suitability of that person to conduct such checks;
 - (ii) submit details of that person to the Secretary of State;
 - (iii) inform the Secretary of State of any changes to the details of that person;
 - (iv) inform the Secretary of State when he ceases to employ the services of that person;
 - (v) provide appropriate training and guidance to that person in accordance with directions given by the Secretary of State; and
 - (vi) ensure that that person discharges his duties in accordance with such conditions as the Secretary of State thinks fit under paragraph (f) above;

- (h) compliance with the code of practice for the time being in force under section 122 of the 1997 Act;
- (i) compliance with any reasonable requests made by the Secretary of State for information required in order to consider the continuing eligibility and suitability of registered persons, and the eligibility and suitability of applicants for registered person status;
- (j) any change to the details in the information recorded on the register shall be notified to the Secretary of State;
- (k) any electronic system used by the registered person for the purposes of countersigning applications under sections 113A and 113B of the 1997 Act shall comply with such specifications as the Secretary of State may notify in writing to the registered body;
- (l) in the event of the Secretary of State removing or suspending the registered person from the register, that person shall pay for any applications knowingly submitted after such removal or suspension.

8.—(1) It shall be a condition of a person's registration that he shall allow a person authorised in writing for the purpose by the Secretary of State to enter any premises owned or occupied by any person appearing to him to be a registered person or an individual nominated in accordance with regulation 4 above, other than premises occupied exclusively for residential purposes as a private dwelling;

(2) A person authorised in writing for the purpose by the Secretary of State may require any person appearing to be a registered person or an individual nominated in accordance with regulation 4 above to produce to him any documents for the purposes of assessing whether the registered person or individual nominated in accordance with regulation 4 above has complied with the conditions of registration.

(3) A person exercising the power conferred by regulation 8(1) shall do so only at a reasonable hour.

(4) A person exercising the power conferred by regulation 8(1) shall comply with any reasonable request (whether before or after entry is gained to the premises) by any person present on the premises to do any one or more of the following—

- (a) state the purpose for which the power is being exercised;
- (b) show the authorisation by the Secretary of State for his exercise of the power; and
- (c) produce evidence of his identity;

(5) A person exercising the power conferred by regulation 8(1) shall make a record of the date and time of his entry, the period for which he remained there and his conduct while there.

(6) If the person exercising the power conferred by regulation 8(1) is requested to do so by any person present on the premises at the time of entry, he shall provide that person with a copy of the record made under paragraph (5).

9. The Secretary of State may remove from the register any registered person who fails to comply with the conditions set out in regulations 7 and 8 above.

Limit on number of countersignatures

10.—(1) The Secretary of State may refuse to accept a registered body's or statutory officeholder's nomination of a person to countersign any applications under Part V of the 1997 Act if the maximum number of names for that registered body or statutory office-holder are already registered.

(2) For the purposes of paragraph (1) above, the maximum number of names for a registered body or statutory office-holder is that specified administratively by the Secretary of State.

(3) Where more than the maximum number of names have been registered, the Secretary of State may remove from the register such number of names as is necessary to bring the registered body's or statutory office-holder's number of registered names to the maximum number permitted.

Registration application form

11. Applications to register shall be made on the form prescribed in the Schedule to these regulations or one to like effect.

19.11.07

Paul Goggins
Minister of State
Northern Ireland Office

SCHEDULE

The Application Form

Access Northern Ireland (ANI)

Registration Form

Please complete this form using black ink only and CAPITAL letters. The information you provide is scanned electronically so please ensure you only write inside the boxed areas and do not mark any other areas of the form.

The accompanying Guide has step-by-step instructions to help you fill out the registration form. Please use these notes or call the help line with any questions on 028 9025 9100. Alternatively see our website www.accessni.gov.uk

Information contained on this form may be passed to other Government organisations and law enforcement agencies for the purpose of checking your application.

This registration form must be completed by an appropriate person in the organisation which wishes to become a Registered Body.

PART A Type of application (Read Note A)

Cross (x) one box only

- | | | |
|----|-----------------------------|--------------------------|
| A1 | Initial Registration | <input type="checkbox"/> |
| | Modify Registration details | <input type="checkbox"/> |
| | Add Counter signatory | <input type="checkbox"/> |
| | Modify Counter signatory | <input type="checkbox"/> |
| | Remove Counter signatory | <input type="checkbox"/> |

Data Protection

Information on this form will be treated as confidential. ANI is registered by the Information Commissioner and data supplied by you on this Form will be processed in accordance with the provisions of the Data Protection Act 1998. The full protection statement is set out in sections 1-10 of the Guidance and on the website.

PART B Organisation details (Read Note B)

Part B must be completed by the Lead Signatory for the organisation which wishes to become a Registered Body.

For additional Signatories, Modifications and Removals only complete the Reference Number (B1).

For Registered Body Modifications and Removals only complete the Reference Number (B1).

For Registered Body Modifications only enter the details that have changed.

B1 Registered Body's Reference number (leave blank for initial registration)

B2 Organisation name

B3 Cross (x) this box if you will be acting as an 'Umbrella body' for other organisations for the purpose of countersigning Standard or Enhanced Disclosure Applications

B4 This organisation involves working with children in a regulated position Yes No

B5 This organisation involves working with vulnerable adults and/or the provision of personal care to vulnerable adults in a care position Yes No

B6 This organisation is classed as non-profit and non-statutory Yes No

B7 Contact name

B8 Office address

B9 Town/City

B10 County

B11 Postcode

B12 Telephone No. (include STD code)

B13 Fax No. (include STD code)

B14 e-mail address _____

B15 Purpose of the organisation
This should be a summary of the aims and objectives of the organisation. Additional pages may be used if necessary

PART B Organisation details (continued)

B16 Charity/Company number

B17 Name of proposed Lead Signatory or Countersignatory for the organisation

B18 I can confirm that the organisation is entitled to ask exempted questions under The Rehabilitation of Offenders Act (Exceptions) Order (Northern Ireland) 1979. Yes

B19 I can confirm that the organisation is likely to countersign applications under Section 113A or 113B of the Police Act 1997 at the request of bodies or individuals asking exempted questions. Yes

B20 **Code of Practice**

I will ensure that the organisation complies with ANI's Code of Practice and will address issues raised by ANI to ensure adherence to its policies. Yes

PART C Proposed Method of Payment for Disclosure Applications (Read Note C)

C1 If you will be paying for Standard or Enhanced Disclosure Applications that you will be countersigning then cross (x) this box

C2 Proposed Method of Payment. *Cross (x) one box only*

Cheque	<input type="checkbox"/>	Credit Card	<input type="checkbox"/>
On Account	<input type="checkbox"/>	Debit Card	<input type="checkbox"/>
Direct Debit	<input type="checkbox"/>		
Postal Order	<input type="checkbox"/>		

Please make cheques payable to Access N.I.

Credit/Debit card payments

C3 Card number

C4 Expiry date / *This is the large number written across the middle of your card*

C5 Issue number (Maestro only)

C6 Start date /

C7 Card security code

C8 Name on card

C9 Signature _____

C10 Signature date / /

Direct Debit payments

(Customer operating on Account only)

C11 Name of Account Holder

C12 Branch Sort Code / /

C13 Account number

Instruction to your Bank or Building Society

Please pay Access NI Direct Debits from the account detailed in this instruction subject to the safeguards assured by the Direct Debit Guarantee.

I understand that this instruction may remain with Access NI and, if so, details will be passed electronically to my Bank/Building Society.

C14 Signature _____

C15 Signature date / /

C16 Additional Signature (for joint accounts) _____

C12 Signature date / /

PART D Lead/Countersignatory Details) (Read Note D)

Part D must be completed by the proposed Lead Countersignatory for Initial Registrations and by the proposed Countersignatory for Additional Countersignatory applications and Countersignatory modifications.

For Countersignatory Removals only complete the Countersignatory Code for Countersignatory Modifications only enter the details that have changed.

D1 Title Mr Mrs Miss Ms Dr Other

If "Other" please give details

D2 Surname

D3 Forename(s)

D4 Name usually known by

D5 Surname at birth
(if different)

used until / /

D6 Any other surname(s) used? Yes No

If Yes — give name(s)

and date(s) used from / /

used until / /

D7 Any other forename(s) used? Yes No

If Yes — give name(s)

and date(s) used from / /

used until / /

D8 Gender Male Female

D9 Date of birth / /

D10 Place of birth — Town

Country

D11 Mother's maiden name

D12 National insurance number

D13 Driving licence number

D14 Passport number

PART E Declaration by Applicant

E1 Declaration

Information you have supplied on this form, and any other additional information you have supplied to support this application may be passed to other government organisations and law enforcement agencies.

I declare that, to the best of my knowledge and belief, all of the information I have been given in connection with this application is full and correct in every respect. I undertake to supply any additional information that may be required by ANI to verify the particulars given and also to inform ANI immediately of any alteration to these particulars.

Warning: if you provide incorrect information ANI may refuse to grant your request to Register or become a Lead or Contersignatory.

ANI must be satisfied that applications for Registration are genuine and in this regard it will check all the information it is given.

By signing below you are agreeing to the above conditions of application.

Signature of applicant _____

Name (in CAPITALS)

Date / /

PART F Verification of Identity (Read Note F)

As part of initial registration the Lead Signatory must have their identity evidenced and verified by ANI.

Please see guidance for acceptable means of identification. Copies of identification documents must be included with the Registration Form when applying for registration.

PART G Declaration (Read Note G)

Declaration

I certify that I am likely to ask an exempted question under the terms of The Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 and that the checks requested are in accordance with the relevant sections of the Police Act 1997 as specified in the Guidance Notes. I confirm that the information I have provided in this Registration Form is complete and accurate.

G1 Signature _____

Date / /

The details provided on this form may be referred by ANI to the Government data sources specified in legislation for matching purposes. Where a match is found data may be released to ANI for inclusion on the disclosure certificate. The details provided may also be used to update data source records where necessary. The details provided on the Registration Form may be used to check your identity against external data sources using an electronic authentication product.

PART H Authorisation (Read Note H)

Do not complete this section for Initial Registration.

This section must be completed by the Lead Signatory for the Registered Body.

H1 Lead (Proposed) Signatory name

H2 Lead (Proposed) Signatory code

Only complete the following for Countersignatory Applications

I confirm that I have verified the identity of the proposed Countersignatory in line with the ANI identification requirements

Warning: It is a criminal offence to make an untrue statement to help obtain a Disclosure Certificate.

The work of Access NI includes checking that your details are genuine.

The signature that you apply here will be checked against the sample you supplied on the Initial Registration application.

H3 Signature _____

H4 Date / /

Please turn over and complete the Payment Section — Part I

PART I Payment for Registration (Read Note I)

The cost of Initial Registration is £150 and includes the registration of the Lead Signatory. The cost of registration for additional Countersignatories is £10.

There is no charge for Registered Body Modifications, Countersignatory Modifications or Countersignatory Removals.

You can pay for your initial registration in the same way as you have indicated that you want to pay for disclosures (see Part C). Please note, if you want to pay by account, your registration cannot become effective until ANI receives the registration fee and that this can take up to two months to complete.

Method of Payment for Registration

Cross (x) one box only

I1 Cheque

Please make cheques payable to 'Access NI'

I2 Usual payment method

I3 **Cheque Payment** — please complete the boxes below

Sort Code / /

Account number

Cheque number

Other

Initials *(For ANI purposes only)*

Completed applications should be sent to:

**Access NI
Brooklyn
65 Knock Road
Belfast
BT5 6LE**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations are made under sections 120ZA, 120AA and 125 of the Police Act 1997 (the “Act”), and come into force on 17th December 2007. Regulation 3 sets out the information to be included in the register maintained by the Secretary of State under section 120 of the Act.

Regulation 4 sets out the procedure for the nomination of authorised individuals in relation to the countersigning of applications under Part V of the Act. A body or statutory office holder which has registered person status must submit names of those persons who are authorised to countersign applications for criminal record and enhanced criminal record certificates.

Regulation 5 sets out the fee payable on application for inclusion in the register.

Regulation 6 sets out additional fees which are payable by a registered person which is a body or a statutory office-holder for inclusion in the register of a second and each subsequent name of those authorised to countersign applications under Part V of the Act.

Regulation 7 sets out conditions which are attached to registration. These include requirements as to the payment of fees, the publication of details of charges levied, ensuring the accuracy of the information detailed on the disclosure application form, verification of the identity of the applicant prior to making an application for a criminal record or an enhanced criminal record certificate, compliance with the code of practice, suitability of electronic systems used, and the number of applications which must be signed.

Regulation 8 provides that registered persons and countersignatories must allow the Secretary of State access to their premises in order for an assessment of compliance with the conditions attached to registration to take place.

Regulation 10 sets out the limit on the number of countersignatories, and provides that the Secretary of State may refuse to accept the nomination of an authorised person of a countersignatory if the maximum number is already registered. It also allows the Secretary of State to remove countersignatories from the register.

Regulation 11 provides that the application form contained in Schedule 1 to these regulations or one to like effect, must be used when applying for registration.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Northern Ireland Office, Castle Buildings, Stormont Estate, Belfast.