

2022 No. 158

POLICE

The Police Act 1997 (Criminal Records) (Homes for Ukraine Sponsorship Scheme) (Scotland) Amendment Regulations 2022

Made - - - - at 11.00 a.m. on 6th May 2022

Laid before the Scottish Parliament at 2.00 p.m. on 6th May 2022

Coming into force - - 12th May 2022

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 113B(2)(b), 113CA(1), 113CB(1) and 125(1) and (5) of the Police Act 1997(a), and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Police Act 1997 (Criminal Records) (Homes for Ukraine Sponsorship Scheme) (Scotland) Amendment Regulations 2022 and come into force on 12 May 2022.

Amendment to the Police Act 1997 (Criminal Records) (Scotland) Regulations 2010

2.—(1) The Police Act 1997 (Criminal Records) (Scotland) Regulations 2010(b) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 10 (enhanced criminal record certificates – prescribed purpose and suitability information relating to children)—

(a) for paragraph (2)(k) substitute—

“(k) an individual whose suitability to provide accommodation, to a person who has permission to enter into or to stay in the United Kingdom granted under the immigration rules laid down under section 3(2) of the Immigration Act 1971(c) in relation to the Homes for Ukraine Sponsorship Scheme(d), is being assessed,”

(a) 1997 c. 50 (“the 1997 Act”). Section 113B of the 1997 Act was inserted by section 163(2) of the Serious and Organised Crime and Police Act 2005 (c. 15) (“the 2005 Act”). Sections 113CA and 113CB of the 1997 Act were inserted by paragraph 29 of schedule 4 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14). Section 125(1) of the 1997 Act provides that anything authorised or required by any provision of Part 5 of the 1997 Act to be prescribed shall be prescribed by regulations made by the Secretary of State. By virtue of section 126(3) and (4) of the 1997 Act, as inserted by section 166(2) of the 2005 Act, in the application of Part 5 of the 1997 Act to Scotland, references to the Secretary of State must be construed as references to the Scottish Ministers (except in section 118(2A)(d) or 124A(1) and (2)).

(b) S.S.I. 2010/168, relevantly amended by S.S.I. 2011/211 and S.S.I. 2022/97.

(c) 1971 c. 77.

(d) The rules in relation to the Homes for Ukraine Sponsorship Scheme are set out at UKR 11.1 to UKR 20.2 of the Appendix Ukraine Scheme of the Immigration Rules (HC 395). <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-ukraine-scheme>. “Permission to enter” and “permission to stay” are defined at paragraph 6.2 of the Immigration Rules: Introduction (<https://www.gov.uk/guidance/immigration-rules/immigration-rules-introduction#intro6>).

(b) for paragraph (2)(l) substitute—

“(l) an individual over the age of 16 years who—

- (i) resides in the same household as an individual whose suitability to provide accommodation, to a person who has permission to enter into or stay in the United Kingdom granted under the immigration rules laid down under section 3(2) of the Immigration Act 1971 in relation to the Homes for Ukraine Sponsorship Scheme, is being assessed, and
- (ii) the individual being assessed resides in the accommodation being provided.”.

(3) In regulation 12 (enhanced criminal record certificates – prescribed purpose and suitability information relating to protected adults)—

(a) for paragraph (2)(d) substitute—

“(d) an individual whose suitability to provide accommodation, to a person who has permission to enter into or stay in the United Kingdom granted under the immigration rules laid down under section 3(2) of the Immigration Act 1971 under the Homes for Ukraine Sponsorship Scheme, is being assessed,”

(b) for paragraph (2)(e) substitute—

“(e) an individual over the age of 16 years who—

- (i) resides in the same household as an individual whose suitability to provide accommodation, to a person who has permission to enter into or stay in the United Kingdom granted under the immigration rules laid down under section 3(2) of the Immigration Act 1971 in relation to the Homes for Ukraine Sponsorship Scheme, is being assessed, and
- (ii) the individual being assessed resides in the accommodation being provided.”.

NEIL GRAY

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
At 11.00 a.m. on 6th May 2022

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Act 1997 (Criminal Records) (Scotland) Regulations 2010 (“the 2010 Regulations”) to make provision for enhanced disclosures with suitability information in relation to individuals who are offering to provide accommodation (or are residing in accommodation that is to be provided) to a person who has permission to enter into or to stay in the United Kingdom under the Homes for Ukraine Sponsorship Scheme.

The 2010 Regulations make detailed provision in relation to applications for criminal conviction certificates, criminal record certificates and enhanced criminal record certificates under Part 5 of the Police Act 1997 (“the 1997 Act”). Regulation 10 of the 2010 Regulations prescribes the purposes for which an enhanced criminal record certificate can be required including suitability information relating to children. Regulation 12 of the 2010 Regulations prescribes the purposes for which an enhanced criminal record certificate can be required including suitability information relating to adults.

The Police Act 1997 (Criminal Records) (Scotland) Amendment Regulations 2022 (which came into force on 24 March 2022) inserted paragraphs (2)(k) and (2)(l) into regulation 10 and paragraphs (2)(d) and (2)(e) into regulation 12 of the 2010 Regulations to make provision for enhanced disclosures with suitability information in relation to individuals offering to provide accommodation (along with those individuals over the age of 16 years residing within the same premises) to Ukrainian nationals, and their immediate family members, who had left Ukraine in connection with the Russian invasion (and being provided accommodation via the Homes for Ukraine Sponsorship Scheme).

Regulation 2(2) and (3) of these Regulations amends the 2010 Regulations to substitute new paragraphs (2)(k) and (2)(l) into regulation 10 and new paragraphs (2)(d) and (2)(e) into regulation 12. so that the categories of individual in relation to whom an exempted question may be asked for the purpose of an enhanced criminal record certificate with suitability information relating to children and protected adults will now include any individual whose suitability is being assessed to provide accommodation to a person who has permission to enter into or stay in the United Kingdom granted under the immigration rules laid down under section 3(2) of the 1971 Act under the Homes for Ukraine Sponsorship Scheme (and any individual who is over the age of 16 and who resides in the same household as that individual being assessed).

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