



# Police Act 1997

## 1997 CHAPTER 50

### PART V

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

##### Modifications etc. (not altering text)

- C1** Pt. 5 power to apply (with modifications) conferred (E.W.) (7.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(4\)](#), 178(2)
- C2** Pt. 5 explained (7.7.2008 for specified purposes, 3.3.2011 for specified purposes, 10.3.2015 in so far as not already in force) by [Data Protection Act 1998 \(c. 29\)](#), [s. 56\(4\)](#) (as amended (19.5.2008) by 2006 c. 47, ss. 63, 65, [Sch. 9 para. 15\(3\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2008/1320, [art. 3](#); S.I. 2008/1592, [art. 2](#); S.I. 2011/601, [art. 2](#); S.I. 2015/312, [art. 2](#))
- C3** Pt. 5 modified (temp.) (S.) (20.1.2009) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006\) Order 2009 \(S.S.I. 2009/4\)](#), arts. 1(2), [5](#) (with art. 3)
- C4** Pt. 5 modified (temp.) (S.) (20.1.2009) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006\) Order 2009 \(S.S.I. 2009/4\)](#), arts. 1(2), [4](#) (with art. 3)
- C5** Pt. 5 extended in part (Guernsey) (with modifications) (10.12.2009) by [The Police Act 1997 \(Criminal Records\) \(Guernsey\) Order 2009 \(S.I. 2009/3215\)](#), arts. 1(2), 3, Sch. 1, [Sch. 3](#) (with arts. 1(3), 6-8)
- C6** Pt. V extended in part (Jersey) (with modifications) (18.3.2010) by [The Police Act 1997 \(Criminal Records\) \(Jersey\) Order 2010 \(S.I. 2010/765\)](#), arts. 1(2), 3, Schs. 1, [3](#) (with arts. 1(3), 6-8)
- C7** Pt. V extended in part (Isle of Man) (with modifications) (18.3.2010) by [The Police Act 1997 \(Criminal Records\) \(Isle of Man\) Order 2010 \(S.I. 2010/764\)](#), arts. 1(2), 3, Schs. 1, [3](#) (with arts. 1(3), 6-8)

## 112 Criminal conviction certificates.

- (1) <sup>F1</sup>The Secretary of State<sup>F1</sup>[<sup>F1</sup>DBS] shall issue a criminal conviction certificate to any individual who—
- (a) makes an application <sup>F2</sup>....,
  - <sup>F3</sup>(aa) is aged 16 or over at the time of making the application,] and

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- (b) [<sup>F4</sup>pays in the prescribed manner any prescribed fee]
- (2) A criminal conviction certificate is a certificate which—
- (a) gives the prescribed details of every conviction [<sup>F5</sup>or conditional caution] of the applicant which is recorded in central records, or
- (b) states that there [<sup>F6</sup>is no such conviction][<sup>F6</sup>are no such convictions and conditional cautions].
- (3) In this section—
- “central records” means such records of convictions [<sup>F7</sup>and conditional cautions] held for the use of police forces generally as may be prescribed;
- [<sup>F8</sup>“conditional caution” means a caution given under section 22 of the Criminal Justice Act 2003 (c. 44) or section 66A of the Crime and Disorder Act 1998, other than one that is spent for the purposes of Schedule 2 to the Rehabilitation of Offenders Act 1974.]
- “conviction” means a conviction within the meaning of the <sup>M1</sup>Rehabilitation of Offenders Act 1974, other than a spent conviction.
- (4) Where an applicant has received a criminal conviction certificate, [<sup>F9</sup>the Secretary of State][<sup>F9</sup>DBS] may refuse to issue another certificate to that applicant during such period as may be prescribed.

#### Textual Amendments

- F1** Words in s. 112(1) 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(a)** (with Pt. 4)
- F2** Words in s. 112(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), **ss. 79(1)**, 101(2) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. 97(2), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F3** S. 112(1)(aa) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 80(1)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F4** S. 112(1)(b) substituted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\)](#), arts. 1(1), **2(1)(b)**
- F5** Words in s. 112(2)(a) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 84(a)**, 120 (with s. 97); S.I. 2012/2234, art. 2(v)
- F6** Words in s. 112(2)(b) substituted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 84(b)**, 120 (with s. 97); S.I. 2012/2234, art. 2(v)
- F7** Words in s. 112 inserted (E.W.) (19.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 50(2)(a)**, 153(7); S.I. 2008/3260, art. 2(1)(b)
- F8** Words in s. 112 inserted (E.W.) (19.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 50(2)(b)**, 153(7); S.I. 2008/3260, art. 2(1)(b)
- F9** Words in s. 112(4) 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(a)** (with Pt. 4)

#### Commencement Information

- I1** S. 112 not in force at Royal Assent, see s. 135(1)
- I2** S. 112 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(a)**
- I3** S. 112 in force at 10.3.2014 for E.W. by S.I. 2014/237, **art. 2**

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**Marginal Citations**

**M1** 1974 c. 53.

**<sup>F10</sup>113 Criminal record certificates.**

.....

**Textual Amendments**

**F10** S. 113 repealed (1.4.2006 for S., 6.4.2006 for E.W.) by **Serious Organised Crime and Police Act 2005** (c. 15), ss. 163(1), 178(4)(d)(8), **Sch. 17 Pt. 2**; S.S.I. 2006/166, art. 2(1)(c)(d); S.I. 2006/378, art. 7(a) (f)

**<sup>F11</sup>113A Criminal record certificates** **E+W**

- (1) [<sup>F12</sup>DBS] must issue a criminal record certificate to any individual who—
  - (a) makes an application <sup>F13</sup> ...,
  - <sup>F14</sup>(aa) [ is aged 16 or over at the time of making the application,] and
  - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
  - (a) be countersigned by a registered person, and
  - (b) be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.

[ But an application for a criminal record certificate need not be countersigned by a <sup>F15</sup>(2A) registered person if—

- (a) the application is transmitted to [<sup>F16</sup>DBS] electronically by a registered person who satisfies conditions determined by [<sup>F16</sup>DBS], and
- (b) it is transmitted in accordance with requirements determined by [<sup>F16</sup>DBS].]

- (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.

<sup>F17</sup>(4) .....

- (5) [<sup>F18</sup>DBS] may treat an application under this section as an application under section 113B if—

- (a) in [<sup>F19</sup>its] opinion the certificate is required for a purpose prescribed under subsection (2) of that section,
- (b) the registered person provides [<sup>F20</sup>it] with the statement required by that subsection, and
- (c) the applicant consents and pays to [<sup>F18</sup>DBS] the amount (if any) by which the fee payable in relation to an application under that section exceeds the fee paid in relation to the application under this section.

- (6) In this section—

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“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 [<sup>F21</sup>which—

(a) so far as it applies to convictions, is a question] in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act; [<sup>F22</sup>and—

(b) so far as it applies to cautions, is a question to which paragraph 3(3) or (4) of Schedule 2 to that Act has been excluded by an order of the Secretary of State under paragraph 4 of that Schedule;]

[<sup>F23</sup>“relevant matter”, in this section as it has effect in England and Wales, means—

(a) in relation to a person who has one conviction only—

(i) a conviction of an offence within subsection (6D);

(ii) a conviction in respect of which a custodial sentence or a sentence of service detention was imposed; or

(iii) a current conviction;

(b) in relation to any other person, any conviction;

(c) a caution given in respect of an offence within subsection (6D);

(d) a current caution.]

[ The offences referred to in paragraphs (a)(i) and (c) of the definition of “relevant <sup>F24</sup>(6D) matter” in subsection (6), as it has effect in England and Wales, are as follows—

(a) murder;

(b) an offence under section 67(1A) of the Medicines Act 1968 (prescribing, etc. a medicinal product in contravention of certain conditions);

(c) an offence under any of sections 126 to 129 of the Mental Health Act 1983;

(d) an offence specified in the Schedule to the Disqualification from Caring for Children (England) Regulations 2002;

(e) an offence specified in Schedule 15 to the Criminal Justice Act 2003 (specified offences for the purposes of Chapter 5 of Part 12 of that Act (dangerous offenders));

(f) an offence under the following provisions of the Mental Capacity Act 2005—

(i) section 44 (ill-treatment or neglect);

(ii) paragraph 4 of Schedule 1 (applications and procedure for registration);

(iii) paragraph 4 of Schedule 4 (duties of attorney in event of incapacity of donor);

(g) an offence under section 7, 9 or 19 of the Safeguarding Vulnerable Groups Act 2006 (offences in respect of regulated activity);

(h) an offence specified in section 17(3)(a), (b) or (c) of the Health and Social Care Act 2008 (cancellation of registration), apart from an offence under section 76 of that Act (disclosure of confidential personal information);

(i) an offence specified in the Schedule to the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009;

(j) an offence specified in Schedule 2 or 3 to the Childcare (Disqualification) Regulations 2009;

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- (k) an offence which has been superseded (directly or indirectly) by an offence within paragraphs (a) to (j);
  - (l) an offence of—
    - (i) attempting or conspiring to commit any offence falling within paragraphs (a) to (k), or
    - (ii) inciting or aiding, abetting, counselling or procuring the commission of any such offence,or an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) committed in relation to any such offence;
  - (m) an offence under the law of Scotland or Northern Ireland or any territory outside the United Kingdom which corresponds to an offence under the law of England and Wales within any of paragraphs (a) to (l);
  - (n) any offence under section 42 of the Armed Forces Act 2006 in relation to which the corresponding offence under the law of England and Wales (within the meaning of that section) is an offence within any of paragraphs (a) to (l);
  - (o) an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 of which the corresponding civil offence (within the meaning of that Act) is an offence within any of paragraphs (a) to (l).
- (6E) For the purposes of the definition of “relevant matter” as it has effect in England and Wales—
- (a) “conviction” has the same meaning as in the Rehabilitation of Offenders Act 1974, and includes a spent conviction within the meaning of that Act;
  - (b) “caution” includes a caution which is spent for the purposes of Schedule 2 to that Act but excludes a disregarded caution within the meaning of Chapter 4 of Part 5 of the Protection of Freedoms Act 2012;
  - (c) a person’s conviction is a current conviction if—
    - (i) the person was aged 18 or over on the date of the conviction and that date fell within the 11 year period ending with the day on which the certificate is issued, or
    - (ii) the person was aged under 18 on the date of conviction and that date fell within the period of 5 years and 6 months ending with the day on which the certificate is issued;
  - (d) a caution given to a person is a current caution if—
    - (i) the person was aged 18 or over on the date it was given and that date fell within the 6 year period ending with the day on which the certificate is issued, or
    - (ii) the person was aged under 18 on the date it was given and that date fell within the 2 year period ending with the day on which the certificate is issued;
  - (e) “custodial sentence” and “sentence of service detention” have the same meaning as in section 5(8) of the Rehabilitation of Offenders Act 1974.
- (6F) Section 139(1) and (4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (which amends section 5(8) of the Rehabilitation of Offenders Act 1974) is to be treated for the purposes of subsection (6E)(e) as being in force when subsection (6E) (e) comes into force.]

[ The Secretary of State may by order amend the definitions of “central records” and <sup>F25</sup>(7) “relevant matter” in subsection (6).

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- (8) The power to make an order under subsection (7) is exercisable by statutory instrument, but no such order may be made unless a draft of the instrument containing the order is laid before and approved by resolution of each House of Parliament.]

[ For the purposes of this Part a person acts as the registered person in relation to an <sup>F26</sup>(9) application for a criminal record certificate if the person—

- (a) countersigns the application, or  
(b) transmits the application to [<sup>F27</sup>DBS] under subsection (2A).]

<sup>F28</sup>(10) . . . . .

### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by **Serious Organised Crime and Police Act 2005** (c. 15), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F12** Words in s. 113A(1) 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(b)** (with Pt. 4)
- F13** Words in s. 113A(1)(a) repealed (S.) (11.1.2008) by **Protection of Vulnerable Groups (Scotland) Act 2007** (asp 14), **ss. 79(1)**, 101(2) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by **Policing and Crime Act 2009** (c. 26), ss. 97(2), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F14** S. 113A(1)(aa) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by **Protection of Freedoms Act 2012** (c. 9), **ss. 80(1)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F15** S. 113A(2A) inserted (E.W.) (2.3.2009) by **The Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009** (S.I. 2009/203), arts. 1(1), **3(2)**
- F16** Words in s. 113A(2A) 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(b)** (with Pt. 4)
- F17** S. 113A(4) repealed (E.W.) (17.6.2013) by **Protection of Freedoms Act 2012** (c. 9), ss. 79(2)(a), 120, **Sch. 10 Pt. 6** (with s. 97); S.I. 2013/1180, art. 2(a)
- F18** Words in s. 113A(5) 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(b)** (with Pt. 4)
- F19** Word in s. 113A(5)(a) 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)**, 38(a) (with Pt. 4)
- F20** Word in s. 113A(5)(b) 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), **38(b)** (with Pt. 4)
- F21** Words in s. 113A(6) inserted (E.W.) (19.12.2008) by **Criminal Justice and Immigration Act 2008** (c. 4), **ss. 50(3)(a)**, 153(7); S.I. 2008/3260, art. 2(1)(b)
- F22** Words in s. 113A(6) inserted (E.W.) (19.12.2008) by **Criminal Justice and Immigration Act 2008** (c. 4), **ss. 50(3)(b)**, 153(7); S.I. 2008/3260, art. 2(1)(b)
- F23** Words in s. 113A(6) substituted (E.W.) (29.5.2013) by **The Police Act 1997 (Criminal Record Certificates Relevant Matters) (Amendment) (England and Wales) Order 2013** (S.I. 2013/1200), arts. 1(1), **3**

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- F24** S. 113A(6D)-(6F) inserted (E.W.) (29.5.2013) by [The Police Act 1997 \(Criminal Record Certificates Relevant Matters\) \(Amendment\) \(England and Wales\) Order 2013 \(S.I. 2013/1200\)](#), arts. 1(1), **4**
- F25** S. 113A(7)(8) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 9 para. 14(2)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch
- F26** S. 113A(9) inserted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **3(4)**
- F27** Words in s. 113A(9) 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(b)** (with Pt. 4)
- F28** S. 113A(10) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 36, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa) (bb)(i)

**Modifications etc. (not altering text)**

- C8** S. 113A(1) excluded (E.W.) (31.3.2010) by [The Safeguarding Vulnerable Groups Act 2006 \(Controlled Activity and Miscellaneous Provisions\) Regulations 2010 \(S.I. 2010/1146\)](#), regs. 1, **4(1)**
- C9** S. 113A(1)(a) modified (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **21(1)**

**[<sup>F11</sup>113A Criminal record certificates **N.I.****

- (1) The Secretary of State must issue a criminal record certificate to any individual who—
  - (a) makes an application <sup>F13</sup> ...,
    - [ except in prescribed circumstances, is aged 16 or over at the time of making <sup>F327</sup>(aa) the application,] and
  - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
  - (a) be countersigned by a registered person, and
  - (b) be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.

[ But an application for a criminal record certificate need not be countersigned by a <sup>F328</sup>(2A) registered person if—

  - (a) the application is transmitted to the Department electronically by a registered person who satisfies conditions determined by the Department, and
  - (b) it is transmitted in accordance with requirements determined by the Department.]
- (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.
- <sup>F329</sup>(4) .....
- (5) The Secretary of State may treat an application under this section as an application under section 113B if—
  - (a) in his opinion the certificate is required for a purpose prescribed under subsection (2) of that section,

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- (b) the registered person provides him with the statement required by that subsection, and
- (c) the applicant consents and pays to the Secretary of State the amount (if any) by which the fee payable in relation to an application under that section exceeds the fee paid in relation to the application under this section.

(6) 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 Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act;

[<sup>F330</sup>“relevant matter”, in this section as it has effect in Northern Ireland, means—

- (a) in relation to a person who has one conviction only—
  - (i) a conviction of an offence within subsection (6D);
  - (ii) a conviction in respect of which a sentence of imprisonment, a sentence of service detention or custodial order was imposed; or
  - (iii) a current conviction;
- (b) in relation to any other person, any conviction;
- (c) a caution, restorative caution, diversionary youth conference or informed warning given in respect of an offence within subsection (6D);
- (d) a current caution, restorative caution, diversionary youth conference or informed warning.]

[ The offences referred to in paragraphs (a)(i) and (c) of the definition of “relevant <sup>F331</sup>(6D) matter” in subsection (6), as it has effect in Northern Ireland, are as follows—

- (a) The following offences—
  - (i) Abducting girl under 18 with intention of marriage;
  - (ii) Abducting girl under 18;
  - (iii) Affray;
  - (iv) Breach of the peace;
  - (v) False imprisonment;
  - (vi) Going armed so as to terrify the public;
  - (vii) Indecency – outraging public decency;
  - (viii) Kidnapping;
  - (ix) Manslaughter;
  - (x) Murder;
  - (xi) Publishing obscene libel;
  - (xii) Publishing/exhibiting/selling indecent/obscene things;
  - (xiii) Rape;
  - (xiv) Riot;
  - (xv) Rout (incipient riot); and
  - (xvi) Unlawful assembly.
- (b) an offence under section 1 of the Unlawful Drilling Act 1819;
- (c) an offence under section 10 or 11 of the Slave Trade Act 1824;
- (d) an offence under section 2 or 3 of the Tumultuous Risings (Ireland) Act 1831;



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- (e) an offence under section 35 of the Malicious Damage Act 1861;
- (f) an offence under section 32, 33, 34, 58, 59 or 64 of the Offences Against the Person Act 1861;
- (g) an offence under section 26 of the Criminal Justice Act (Northern Ireland) 1945;
- (h) an offence under section 2 of the Nuclear Installations Act 1965;
- (i) an offence under section 13, 13A or 13B of the Criminal Justice Act (Northern Ireland) 1966;
- (j) an offence under section 5(1) of the Criminal Law Act (NI) 1967;
- (k) an offence under section 25 or 30 of the Children and Young Persons Act (Northern Ireland) 1968;
- (l) an offence under section 7(2)(a), 52, 58(2)(a), 58(2)(b), 63(b), 67 or 67 (1A) of the Medicines Act 1968;
- (m) an offence under section 1, 2 or 3 of the Protection of Persons and Property Act (Northern Ireland) 1969;
- (n) an offence under section 7 of the Public Order Amendment Act (Northern Ireland) 1970;
- (o) an offence under section 4(2), 5(2), 5(3), 6(2), 8, 9, 11, 12, 13, 18, 19, 20 or 23 of the Misuse of Drugs Act 1971;
- (p) an offence under section 1 of the Biological Weapons Act 1974;
- (q) an offence under section 2 of the Criminal Jurisdiction Act 1975;
- (r) an offence under Article 5 of the Poisons (Northern Ireland) Order 1976;
- (s) an offence under Article 4 or 5 of the Criminal Damage (Northern Ireland) Order 1977;
- (t) an offence under Article 19 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977;
- (u) an offence under Article 3 of the Criminal Law (Amendment) (Northern Ireland) Order 1977;
- (v) an offence under section 50 of the Customs and Excise Management Act 1979;
- (w) an offence under section 6(2) or section 7(2) of the Aviation Security Act 1982;
- (x) an offence under Article 5, 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983;
- (y) an offence under sections 1A to 1D or 2 of the Nuclear Material (Offences) Act 1983;
- (z) an offence under section 38 of the Public Order Act 1986;
- (aa) an offence under Article 11, 28, 29, 31, 58, 58ZA or 59 of the Adoption (Northern Ireland) Order 1987;
- (bb) an offence under Article 9, 10, 11, 12, 13, 18(3), 22 or 23 of the Public Order (Northern Ireland) Order 1987;
- (cc) an offence under section 139, 139A, or 141 of the Criminal Justice Act 1988;
- (dd) an offence under Article 3, 4 or 5 of the Crossbows (Northern Ireland) Order 1988;
- (ee) an offence under section 12, 18 or 19 of the Criminal Justice (International Cooperation) Act 1990;
- (ff) an offence under Article 68 or 132 of the Children (Northern Ireland) Order 1995;

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- (gg) an offence under Article 11A or 12B of the Road Traffic (Northern Ireland) Order 1995;
- (hh) an offence under Article 53 or 54 of the Criminal Justice (Northern Ireland) Order 1996;
- (ii) an offence under section 2 or 11 of the Chemical Weapons Act 1996;
- (jj) an offence specified in the Schedule to the Disqualification for Caring for Children Regulations (Northern Ireland) 1996;
- (kk) an offence under section 1 or 2 of the Knives Act 1997;
- (ll) an offence under Article 4, 5(6), 6 or 7(5) of the Protection from Harassment (Northern Ireland) Order 1997;
- (mm) an offence under section 2 of the Landmines Act 1998;
- (nn) an offence under section 35 of the Criminal Justice and Courts Services Act 2000;
- (oo) an offence under section 11, 12, 15, 16, 17, 18, 38B, 39, 58, 60 or paragraph 37 of Schedule 4 to the Terrorism Act 2000;
- (pp) an offence under section 52, 54, 67, 79, 80 or 114 of the Anti-terrorism, Crime and Security Act 2001;
- (qq) an offence under section 58 or 59 of the International Criminal Court Act 2001;
- (rr) an offence under Article 17 of the Criminal Injuries Compensation (Northern Ireland) Order 2002;
- (ss) an offence under section 327, 328, 329, 330, 331, 332, 333A or 342 of the Proceeds of Crime Act 2002;
- (tt) an offence under Article 12, 15(2)(a)-(e), 24 to 28 or 42 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;
- (uu) an offence under Article 30 or 46 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;
- (vv) an offence stated by a court to be aggravated by hostility under Article 2 of the Criminal Justice (No 2) (Northern Ireland) Order 2004;
- (ww) an offence under Article 3, 24, 37, 39, 40, 41, 42, 45, 61, 62, 63 or 67 of the Firearms (Northern Ireland) Order 2004;
- (xx) an offence under section 1 or 2 of the Terrorism Act 2006;
- (yy) an offence under paragraph 1 of Schedule 1 to the Violent Crime Reduction Act 2006;
- (zz) an offence under section 47 of the Wireless Telegraphy Act 2006;
- (aaa) an offence under Article 11, 13 or 23 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007;
- (bbb) an offence under section 27, paragraph 8 of Schedule 3 or paragraph 12 of Schedule 4 to the Justice and Security (Northern Ireland) Act 2007;
- (ccc) an offence under Schedule 1 or Schedule 2 of the Criminal Justice (Northern Ireland) Order 2008;
- (ddd) an offence under Article 68, 69 or 73 of the Sexual Offences (Northern Ireland) Order 2008;
- (eee) an offence under section 71 of the Coroners and Justice Act 2009;
- (fff) an offence under Article 137 or 138 of the Air Navigation Order 2009;

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- (ggg) an offence specified in the Schedule to the Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2009;
  - (hhh) an offence under section 2 of the Cluster Munitions (Prohibitions) Act 2010;
  - (iii) an offence under section 93 of the Justice Act (Northern Ireland) 2011;
  - (jjj) an offence under regulation 255 of the Human Medicines Regulations 2012;
  - (kkk) an offence which has been superseded (directly or indirectly) by an offence within paragraphs (a) to (jjj);
  - (lll) an offence of –
    - (i) attempting or conspiring to commit any offence falling within paragraphs (a) to (kkk), or inciting or aiding, abetting, counselling or procuring the commission of any such offence, or
    - (ii) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or committing serious crime) committed in relation to any such offence;
  - (mmm) an offence under the law of England, Scotland or Wales or any territory outside the United Kingdom which corresponds to an offence under the law of Northern Ireland within any of the paragraphs (a) to (lll);
  - (nnn) an offence under section 42 of the Armed Forces Act 2006 in relation to which the corresponding offence under the law of Northern Ireland (within the meaning of that section) is an offence corresponding with any of the paragraphs (a) to (lll); and
  - (ooo) an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 of which the corresponding civil offence (within the meaning of those Acts) is an offence within any of the paragraphs (a) to (lll).
- (6E) For the purposes of the definition of “relevant matter” as it has effect in Northern Ireland–
- (a) “conviction” has the same meaning as in the Rehabilitation of Offenders (Northern Ireland) Order 1978 and includes a spent conviction within the meaning of that Order;
  - (b) a person’s conviction is a current conviction if–
    - (i) the person was aged 18 or over on the date of the conviction and that date fell within the 11 year period ending with the day on which the certificate is issued, or
    - (ii) the person was [<sup>F332</sup>aged under 18] on the date of conviction and that date fell within the period of 5 years and 6 months ending with the day on which the certificate is issued;
  - (c) a caution or restorative caution given to a person is a current caution or restorative caution if–
    - (i) the person was aged 18 or over on the date it was given and that date fell within the 6 year period ending with the day on which the certificate is issued, or
    - (ii) the person was aged under 18 on the day it was given and that date fell within the 2 year period ending with the day on which the certificate is issued;
  - (d) a diversionary youth conference given to a person is a current diversionary youth conference if the person was aged under 18 on the date it was given

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and that date fell within the 2 year period ending with the day on which the certificate is issued;

- (e) an informed warning given to a person is a current informed warning if the date on which it was given fell within the 1 year period ending with the day on which the certificate is issued;
- (f) “sentence of imprisonment”, “sentence of service detention” and “custodial order” have the same meaning as in Articles 2 and 6 of the Rehabilitation of Offenders (Northern Ireland) Order 1978.]

[ The Secretary of State may by order amend the definitions of “central records” and <sup>F25</sup>(7) “relevant matter” in subsection (6).

- (8) The power to make an order under subsection (7) is exercisable by statutory instrument, but no such order may be made unless a draft of the instrument containing the order is laid before and approved by resolution of each House of Parliament.]

[ For the purposes of this Part a person acts as the registered person in relation to an <sup>F333</sup>(9) application for a criminal record certificate if the person—

- (a) countersigns the application, or
- (b) transmits the application to the Department under subsection (2A).]]

#### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by *Serious Organised Crime and Police Act 2005* (c. 15), **ss. 163(2)**, 178(4)(d)(8); *S.S.I. 2006/166*, art. 2(1)(c); *S.I. 2006/378*, art. 7(a); *S.I. 2006/2182*, art. 2; *S.I. 2007/3064*, art. 2; *S.I. 2008/306*, art. 2; *S.I. 2008/697*, art. 2(a); *S.I. 2015/188*, art. 2
- F13** Words in s. 113A(1)(a) repealed (S.) (11.1.2008) by *Protection of Vulnerable Groups (Scotland) Act 2007* (asp 14), **ss. 79(1)**, 101(2) (with ss. 90, 99); *S.S.I. 2007/564*, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by *Policing and Crime Act 2009* (c. 26), ss. 97(2), 116(1), **Sch. 8 Pt. 8**; *S.I. 2010/125*, art. 2(n)(u)
- F25** S. 113A(7)(8) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by *Safeguarding Vulnerable Groups Act 2006* (c. 47), s. 65, **Sch. 9 para. 14(2)** (with ss. 51, 57(3), 60(4), 64(5)); *S.I. 2009/2610*, art. 2(a) (with arts. 4-23); *S.I. 2009/2611*, art. 2, Sch
- F327** S. 113A(1)(aa) inserted (N.I.) (2.11.2015) by *Justice Act (Northern Ireland) 2015* (c. 9), **ss. 38(1)**, 106(2); *S.R. 2015/358*, art. 2(c)
- F328** S. 113A(2A) inserted (N.I.) (2.11.2015) by *Justice Act (Northern Ireland) 2015* (c. 9), **ss. 44(1)**, 106(2); *S.R. 2015/358*, art. 2(f)
- F329** S. 113A(4) repealed (N.I.) (2.11.2015) by *Justice Act (Northern Ireland) 2015* (c. 9), ss. 37(1)(b), 106(2), **Sch. 9 Pt. 3**; *S.R. 2015/358*, art. 2(a)
- F330** Words in s. 113A(6) substituted (N.I.) (14.4.2014) by *The Police Act 1997 (Criminal Record Certificates Relevant Matters) (Amendment) Order (Northern Ireland) 2014* (S.R. 2014/100), arts. 1, **3**
- F331** S. 113A(6D)(6E) inserted (N.I.) (14.4.2014) by *The Police Act 1997 (Criminal Record Certificates Relevant Matters) (Amendment) Order (Northern Ireland) 2014* (S.R. 2014/100), arts. 1, **4**
- F332** Words in s. 113A(6E)(b)(ii) substituted (N.I.) (8.7.2014) by *The Police Act 1997 (Criminal Record Certificates: Relevant Matters) (Amendment No. 2) Order (Northern Ireland) 2014* (S.R. 2014/207), arts. 1, **2**
- F333** S. 113A(9) inserted (N.I.) (2.11.2015) by *Justice Act (Northern Ireland) 2015* (c. 9), s. 106(2), **Sch. 5 para. 1(3)**; *S.R. 2015/358*, art. 2(m)(i)

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### Commencement Information

**I34** S. 113A in force at 1.4.2008 for N.I. by S.I. 2008/692, art. 2(b)

## [<sup>F11</sup>113A Criminal record certificates **S**

- (1) The Secretary of State must issue a criminal record certificate to any individual who—
  - (a) makes an application <sup>F13</sup> ..., and
  - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
  - (a) be countersigned by a registered person, and
  - (b) 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, [<sup>F334</sup>(or states that there is no such matter); and
  - (b) if the applicant is subject to notification requirements under Part 2 of the Sexual Offences Act 2003 (c. 42), states that fact.]

[ But a criminal record certificate must not give the details of a relevant matter if—  
<sup>F335</sup>(3A) (a) those details were excluded from another criminal record certificate by virtue of an order under section 116ZB(9)(b), and  
(b) it appears to the Scottish Ministers that the application under subsection (1) is made for the same purpose for which the application for the other certificate was made.]

<sup>F336</sup>(4) .....

- (5) The Secretary of State may treat an application under this section as an application under section 113B if—
  - (a) in his opinion the certificate is required for a purpose prescribed under subsection (2) of that section,
  - (b) the registered person provides him with the statement required by that subsection, and
  - (c) the applicant consents and pays to the Secretary of State the amount (if any) by which the fee payable in relation to an application under that section exceeds the fee paid in relation to the application under this section.

[ The Scottish Ministers need not issue a criminal record certificate under subsection (1)  
<sup>F337</sup>(5A) if the statement accompanying the application states that the purpose for which the certificate is required is the purpose mentioned in disclosure condition C (set out in section 55 of the Protection of Vulnerable Groups (Scotland) Act 2007) (asp 14).]

- (6) In this section—

“central records” means such records of convictions [<sup>F338</sup>, cautions or other information] held for the use of police forces generally as may be prescribed;  
[<sup>F339</sup>“conviction” means a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction,]  
“exempted question” means a question in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (effect of rehabilitation)

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has been excluded by an order of the Secretary of State under section 4(4) of that Act;

“relevant matter” means—

- (a) [<sup>F340</sup>a conviction which is not a protected conviction,
- (b) a caution which is not spent by virtue of schedule 3 of the Rehabilitation of Offenders Act 1974, and]
- (c) [<sup>F341</sup>a prescribed court order.]]

#### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by *Serious Organised Crime and Police Act 2005* (c. 15), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F13** Words in s. 113A(1)(a) repealed (S.) (11.1.2008) by *Protection of Vulnerable Groups (Scotland) Act 2007* (asp 14), **ss. 79(1)**, 101(2) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by *Policing and Crime Act 2009* (c. 26), ss. 97(2), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F334** Words in s. 113A(3) substituted (S.) (28.2.2011) by *Protection of Vulnerable Groups (Scotland) Act 2007* (asp 14), **ss. 78(2)(a)**, 101(2) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F335** S. 113A(3A) inserted (S.) (10.9.2015) by *The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015* (S.S.I. 2015/330), arts. 1(2), **3(2)(a)** (with arts. 5-10)
- F336** S. 113A(4) repealed (S.) (10.9.2015) by *The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015* (S.S.I. 2015/330), arts. 1(2), **3(2)(b)** (with arts. 5-10)
- F337** S. 113A(5A) inserted (S.) (28.2.2011) by *Protection of Vulnerable Groups (Scotland) Act 2007* (asp 14), s. 101(2), **sch. 4 para. 28** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F338** Words in s. 113A(6) substituted (S.) (28.2.2011) by *Protection of Vulnerable Groups (Scotland) Act 2007* (asp 14), **ss. 78(2)(b)**, 101(2) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F339** Words in s. 113A(6) inserted (S.) (10.9.2015) by *The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015* (S.S.I. 2015/330), arts. 1(2), **3(2)(c)(i)** (with arts. 5-10)
- F340** Words in s. 113A(6) substituted (S.) (10.9.2015) by *The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015* (S.S.I. 2015/330), arts. 1(2), **3(2)(c)(ii)** (with arts. 5-10)
- F341** Words in s. 113A(6) inserted (S.) (28.2.2011) by *Protection of Vulnerable Groups (Scotland) Act 2007* (asp 14), **ss. 78(2)(d)**, 101(2) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

#### 113B Enhanced criminal record certificates **E+W**

- (1) [<sup>F29</sup>DBS] must issue an enhanced criminal record certificate to any individual who—
- (a) makes an application <sup>F30</sup>...,
  - [<sup>F31</sup>(aa) is aged 16 or over at the time of making the application,] and
  - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
- (a) be countersigned by a registered person, and

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- (b) be accompanied by a statement by the registered person that the certificate is required <sup>F32</sup>for the purposes of an exempted question asked] for a prescribed purpose.

[ But an application for an enhanced criminal record certificate need not be <sup>F33</sup>(2A) countersigned by a registered person if—

- (a) the application is transmitted to <sup>F34</sup>DBS] electronically by a registered person who satisfies conditions determined by <sup>F34</sup>DBS], and
- (b) it is transmitted in accordance with requirements determined by <sup>F34</sup>DBS].]

(3) An enhanced 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 and any information provided in accordance with subsection (4), or
- (b) states that there is no such matter or information.

(4) <sup>F35</sup>Before issuing an enhanced criminal record certificate <sup>F36</sup>DBS] must request any relevant chief officer to provide any information which ...—

- (a) <sup>F37</sup>the chief officer reasonably believes to] be relevant for the purpose described in the statement under subsection (2), and
- (b) <sup>F38</sup>in the chief officer's opinion,] ought to be included in the certificate.

[ In exercising functions under subsection (4) a relevant chief officer must have regard <sup>F39</sup>(4A) to any guidance for the time being published by the Secretary of State.]

<sup>F40</sup>(5) .....

<sup>F40</sup>(6) .....

(7) <sup>F41</sup>DBS] may treat an application under this section as an application under section 113A if in <sup>F42</sup>its] opinion the certificate is not required for a purpose prescribed under subsection (2).

(8) If by virtue of subsection (7) <sup>F43</sup>DBS] treats an application under this section as an application under section 113A, <sup>F44</sup>it] must refund to the applicant the amount (if any) by which the fee paid in relation to the application under this section exceeds the fee payable in relation to an application under section 113A.

(9) In this section—

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

<sup>F45</sup>“relevant chief officer” means any chief officer of a police force who is identified by <sup>F46</sup>DBS] for the purposes of making a request under subsection (4).]

<sup>F47</sup> ...

(10) For the purposes of this section references to a police force include any of the following—

- <sup>F48</sup>(a) the Royal Navy Police;
- (c) the Royal Military Police;
- (d) the Royal Air Force Police;
- (e) the Ministry of Defence Police;
- <sup>F49</sup>(f) .....

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- <sup>F49</sup>(g) .....
- (h) the British Transport Police;
- (i) the Civil Nuclear Constabulary;
- (j) the States of Jersey Police Force;
- (k) the salaried police force of the Island of Guernsey;
- (l) the Isle of Man Constabulary;
- (m) a body with functions in any country or territory outside the British Islands which correspond to those of a police force in any part of the United Kingdom, and any reference to the chief officer of a police force includes the person responsible for the direction of a body mentioned in this subsection.

- (11) For the purposes of this section each of the following must be treated as if it were a police force—
- (a) the Commissioners for Her Majesty's Revenue and Customs (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to any one of the Commissioners);
- (b) the [<sup>F50</sup>National Crime Agency] (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Director General of the Agency);
- (c) such other department or body as is prescribed (and regulations may prescribe in relation to the department or body the person to whom a reference to the chief officer is to be taken to be).

[ For the purposes of this Part a person acts as the registered person in relation to an <sup>F51</sup>(12) application for an enhanced criminal record certificate if the person—

- (a) countersigns the application, or
- (b) transmits the application to [<sup>F52</sup>DBS] under subsection (2A).]

<sup>F53</sup>(13) .....

#### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F29** Words in s. 113B(1) 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(c)** (with Pt. 4)
- F30** Words in s. 113B(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), **ss. 79(1)**, 101(2) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. 97(2), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F31** S. 113B(1)(aa) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 80(1)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F32** Words in s. 113B(2)(b) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 9 para. 14(3)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.



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- F33** S. 113B(2A) inserted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **4(2)**
- F34** Words in s. 113B(2A) 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(c)** (with Pt. 4)
- F35** Words in s. 113B(4) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. 82(1)(b), 120, **Sch. 10 Pt. 6** (with s. 97); S.I. 2012/2234, art. 2(u)(cc)
- F36** Words in s. 113B(4) 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(c)** (with Pt. 4)
- F37** Words in s. 113B(4)(a) substituted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. **82(1)(c)**, 120 (with s. 97); S.I. 2012/2234, art. 2(u)
- F38** Words in s. 113B(4)(b) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. **82(1)(d)**, 120 (with s. 97); S.I. 2012/2234, art. 2(u)
- F39** S. 113B(4A) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. **82(2)**, 120 (with s. 97); S.I. 2012/2234, art. 2(u)
- F40** S. 113B(5)(6) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157) for specified purposes, 17.6.2013 in so far as not already in force) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. 79(2)(b), 120, **Sch. 10 Pt. 6** (with s. 97); S.I. 2012/2234, art. 2(q)(cc); S.I. 2013/1180, art. 2(a)
- F41** Words in s. 113B(7) 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(c)** (with Pt. 4)
- F42** Word in s. 113B(7) 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), **39(a)** (with Pt. 4)
- F43** Words in s. 113B(8) 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(c)** (with Pt. 4)
- F44** Word in s. 113B(8) 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), **39(b)** (with Pt. 4)
- F45** Words in s. 113B(9) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. **82(3)(a)**, 120 (with s. 97); S.I. 2012/2234, art. 2(u)
- F46** Words in s. 113B(9) 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(c)** (with Pt. 4)
- F47** Words in s. 113B(9) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. 82(3)(b), 120, **Sch. 10 Pt. 6** (with s. 97); S.I. 2012/2234, art. 2(u)(cc)
- F48** S. 113B(10)(a) substituted for s. 113(10)(a)(b) (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 149**; S.I. 2007/1442, art. 2(1)
- F49** S. 113B(10)(f)(g) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 60(a)**; S.I. 2013/1682, art. 3(v)
- F50** Words in s. 113B(11)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 60(b)**; S.I. 2013/1682, art. 3(v)

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- F51** S. 113B(12) inserted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **4(4)**
- F52** Words in s. 113B(12) 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(c)** (with Pt. 4)
- F53** S. 113B(13) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 37, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa) (bb)(i)

**Modifications etc. (not altering text)**

- C10** S. 113B modified (E.W.) (31.3.2010) by [The Safeguarding Vulnerable Groups Act 2006 \(Controlled Activity and Miscellaneous Provisions\) Regulations 2010 \(S.I. 2010/1146\)](#), regs. 1, **5-7**
- C11** S. 113B(1)(a) modified (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **21(1)**

**113B Enhanced criminal record certificates** **N.I.**

- (1) The Secretary of State must issue an enhanced criminal record certificate to any individual who—
- (a) makes an application <sup>F30</sup> ...,
  - <sup>F342</sup>(aa) except in prescribed circumstances, is aged 16 or over at the time of making the application,] and
  - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
- (a) be countersigned by a registered person, and
  - (b) be accompanied by a statement by the registered person that the certificate is required <sup>F32</sup>for the purposes of an exempted question asked] for a prescribed purpose.
- <sup>F343</sup>(2A) But an application for an enhanced criminal record certificate need not be countersigned by a registered person if—
- (a) the application is transmitted to the Department electronically by a registered person who satisfies conditions determined by the Department, and
  - (b) it is transmitted in accordance with requirements determined by the Department.]
- (3) An enhanced 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 and any information provided in accordance with subsection (4), or
  - (b) states that there is no such matter or information.
- (4) <sup>F344</sup>Before issuing an enhanced criminal record certificate the Secretary of State must request <sup>F345</sup>[any relevant chief officer] to provide any information which ... —
- (a) <sup>F346</sup>[the chief officer reasonably believes to] be relevant for the purpose described in the statement under subsection (2), and
  - (b) <sup>F347</sup>[in the chief officer's opinion,] ought to be included in the certificate.
- <sup>F348</sup>(4A) The Department may from time to time publish guidance to chief officers as to the exercise of functions under subsection (4); and in exercising functions under that

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subsection a relevant chief officer must have regard to any guidance for the time being published under this subsection.]

<sup>F349</sup>(5) .....

<sup>F349</sup>(6) .....

(7) The Secretary of State may treat an application under this section as an application under section 113A if in his opinion the certificate is not required for a purpose prescribed under subsection (2).

(8) If by virtue of subsection (7) the Secretary of State treats an application under this section as an application under section 113A, he must refund to the applicant the amount (if any) by which the fee paid in relation to the application under this section exceeds the fee payable in relation to an application under section 113A.

(9) In this section—

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

[<sup>F350</sup>relevant chief officer” means any chief officer of a police force who is identified by the Department for the purposes of making a request under subsection (4);]

<sup>F351</sup> ...

(10) For the purposes of this section references to a police force include any of the following—

[<sup>F48</sup>(a) the Royal Navy Police;]

(c) the Royal Military Police;

(d) the Royal Air Force Police;

(e) the Ministry of Defence Police;

<sup>F49</sup>(f) .....

<sup>F49</sup>(g) .....

(h) the British Transport Police;

(i) the Civil Nuclear Constabulary;

(j) the States of Jersey Police Force;

(k) the salaried police force of the Island of Guernsey;

(l) the Isle of Man Constabulary;

(m) a body with functions in any country or territory outside the British Islands which correspond to those of a police force in any part of the United Kingdom,

and any reference to the chief officer of a police force includes the person responsible for the direction of a body mentioned in this subsection.

(11) For the purposes of this section each of the following must be treated as if it were a police force—

(a) the Commissioners for Her Majesty's Revenue and Customs (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to any one of the Commissioners);

(b) the [<sup>F50</sup>National Crime Agency] (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Director General of the Agency);

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- (c) such other department or body as is prescribed (and regulations may prescribe in relation to the department or body the person to whom a reference to the chief officer is to be taken to be).

[<sup>F352</sup>(12) For the purposes of this Part a person acts as the registered person in relation to an application for an enhanced criminal record certificate if the person—

- (a) countersigns the application, or  
(b) transmits the application to the Department under subsection (2A).]

### Textual Amendments

- F30** Words in s. 113B(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), **ss. 79(1), 101(2)** (with **ss. 90, 99**); [S.S.I. 2007/564](#), **art. 2, sch.**; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 97(2), 116(1)**, **Sch. 8 Pt. 8**; [S.I. 2010/125](#), **art. 2(n)(u)**
- F32** Words in s. 113B(2)(b) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), **s. 65, Sch. 9 para. 14(3)** (with **ss. 51, 57(3), 60(4), 64(5)**); [S.I. 2009/2610](#), **art. 2(a)** (with **arts. 4-23**); [S.I. 2009/2611](#), **art. 2, Sch.**
- F48** S. 113B(10)(a) substituted for s. 113(10)(a)(b) (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), **s. 383(2)**, **Sch. 16 para. 149**; [S.I. 2007/1442](#), **art. 2(1)**
- F49** S. 113B(10)(f)(g) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), **s. 61(2)**, **Sch. 8 para. 60(a)**; [S.I. 2013/1682](#), **art. 3(v)**
- F50** Words in s. 113B(11)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **s. 61(2)**, **Sch. 8 para. 60(b)**; [S.I. 2013/1682](#), **art. 3(v)**
- F342** S. 113B(1)(aa) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 38(1), 106(2)**; [S.R. 2015/358](#), **art. 2(c)**
- F343** S. 113B(2A) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 44(2), 106(2)**; [S.R. 2015/358](#), **art. 2(f)**
- F344** Words in s. 113B(4) repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 40(1)(b), 106(2)**, **Sch. 9 Pt. 3**; [S.R. 2015/358](#), **art. 2(e)**
- F345** Words in s. 113B(4) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 40(1)(a), 106(2)**; [S.R. 2015/358](#), **art. 2(e)**
- F346** Words in s. 113B(4)(a) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 40(1)(c), 106(2)**; [S.R. 2015/358](#), **art. 2(e)**
- F347** Words in s. 113B(4)(b) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 40(1)(d), 106(2)**; [S.R. 2015/358](#), **art. 2(e)**
- F348** S. 113B(4A) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 40(2), 106(2)**; [S.R. 2015/358](#), **art. 2(e)**
- F349** S. 113B(5)(6) repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 37(1)(c), 106(2)**, **Sch. 9 Pt. 3**; [S.R. 2015/358](#), **art. 2(a)**
- F350** Words in s. 113B(9) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 40(3)(a), 106(2)**; [S.R. 2015/358](#), **art. 2(e)**
- F351** Words in s. 113B(9) repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 40(3)(b), 106(2)**, **Sch. 9 Pt. 3**; [S.R. 2015/358](#), **art. 2(e)**
- F352** S. 113B(12) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **s. 106(2)**, **Sch. 5 para. 2(3)**; [S.R. 2015/358](#), **art. 2(m)(i)**

### Modifications etc. (not altering text)

- C24** S. 113B(10)(11) applied by [S.I. 2007/1351 \(N.I. 11\)](#), **Sch. 1 para. 19(7A)** (as inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **s. 106(2)**, **Sch. 5 para. 20(6)**; [S.R. 2015/358](#), **art. 2(m)(i)**)

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**Commencement Information**

**I35** S. 113B in force at 1.4.2008 for N.I. by S.I. 2008/692, art. 2(c)

[<sup>F11</sup>**113B Enhanced criminal record certificates** **S**

- (1) The Secretary of State must issue an enhanced criminal record certificate to any individual who—
  - (a) makes an application <sup>F30</sup> ..., and
  - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must—
  - (a) be countersigned by a registered person, and
  - (b) be accompanied by a statement by the registered person that the certificate is required for a prescribed purpose.
- (3) An enhanced 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 and any information provided in accordance with subsection (4), [<sup>F353</sup>(or states that there is no such matter or information), and
  - (b) if the applicant is subject to notification requirements under Part 2 of the Sexual Offences Act 2003 (c.42), states that fact.]

[ But an enhanced criminal record certificate must not give the details of a relevant <sup>F354</sup>(3A) matter if—

- (a) those details were excluded from another enhanced criminal record certificate by virtue of an order under section 116ZB(9)(b), and
- (b) it appears to the Scottish Ministers that the application under subsection (1) is made for the same purpose for which the application for the other certificate was made.]

(4) Before issuing an enhanced criminal record certificate the Secretary of State must request the chief officer of every relevant police force to provide any information which <sup>F355</sup> ...—

- [<sup>F356</sup>(a) the chief officer reasonably believes to be relevant for the purpose described in the statement under subsection (2), and
- (b) in the chief officer’s opinion, ought to be included in the certificate.]

<sup>F357</sup>(5) .....

[ The Scottish Ministers must pay to such body as may be prescribed such fee as they <sup>F358</sup>(5A) think appropriate for information received from the chief officer of a body mentioned in subsection (10)(j) to (m) as a result of a request under subsection (4) <sup>F359</sup> ....]

<sup>F360</sup>(6) .....

(7) The Secretary of State may treat an application under this section as an application under section 113A if in his opinion the certificate is not required for a purpose prescribed under subsection (2).

(8) If by virtue of subsection (7) the Secretary of State treats an application under this section as an application under section 113A, he must refund to the applicant the

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amount (if any) by which the fee paid in relation to the application under this section exceeds the fee payable in relation to an application under section 113A.

(9) In this section—

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

“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.

(10) For the purposes of this section references to a police force include any of the following—

- <sup>F48</sup>(a) the Royal Navy Police;
- (c) the Royal Military Police;
- (d) the Royal Air Force Police;
- (e) the Ministry of Defence Police;
- <sup>F49</sup>(f) .....
- <sup>F49</sup>(g) .....
- (h) the British Transport Police;
- (i) the Civil Nuclear Constabulary;
- (j) the States of Jersey Police Force;
- (k) the salaried police force of the Island of Guernsey;
- (l) the Isle of Man Constabulary;
- (m) a body with functions in any country or territory outside the British Islands which correspond to those of a police force in any part of the United Kingdom, and any reference to the chief officer of a police force includes the person responsible for the direction of a body mentioned in this subsection.

(11) For the purposes of this section each of the following must be treated as if it were a police force—

- (a) the Commissioners for Her Majesty's Revenue and Customs (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to any one of the Commissioners);
- (b) the [<sup>F50</sup>National Crime Agency] (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Director General of the Agency);
- (c) such other department or body as is prescribed (and regulations may prescribe in relation to the department or body the person to whom a reference to the chief officer is to be taken to be).

#### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 163(2)**, 178(4)(d)(8); [S.S.I. 2006/166](#), art. 2(1)(c); [S.I. 2006/378](#), art. 7(a); [S.I. 2006/2182](#), art. 2; [S.I. 2007/3064](#), art. 2; [S.I. 2008/306](#), art. 2; [S.I. 2008/697](#), art. 2(a); [S.I. 2015/188](#), art. 2
- F30** Words in s. 113B(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), **ss. 79(1)**, 101(2) (with **ss. 90, 99**); [S.S.I. 2007/564](#), art. 2, sch.; and words repealed

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- (E.W.N.I.) (29.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 97(2), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F48** S. 113B(10)(a) substituted for s. 113(10)(a)(b) (4.6.2007) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 149**; S.I. 2007/1442, art. 2(1)
- F49** S. 113B(10)(f)(g) omitted (7.10.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 60(a)**; S.I. 2013/1682, art. 3(v)
- F50** Words in s. 113B(11)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 60(b)**; S.I. 2013/1682, art. 3(v)
- F353** Words in s. 113B(3) substituted (S.) (28.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 108(2)**, 206(1); S.S.I. 2011/157, art. 2(b) (with art. 3)
- F354** S. 113B(3A) inserted (S.) (10.9.2015) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015 (S.S.I. 2015/330), arts. 1(2), **3(3)(a)** (with arts. 5-10)
- F355** Words in s. 113B(4) repealed (S.) (10.9.2015) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015 (S.S.I. 2015/330), arts. 1(2), **3(3)(b)(i)** (with arts. 5-10)
- F356** S. 113B(4)(a)(b) substituted (S.) (10.9.2015) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015 (S.S.I. 2015/330), arts. 1(2), **3(3)(b)(ii)** (with arts. 5-10)
- F357** S. 113B(5) repealed (S.) (10.9.2015) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015 (S.S.I. 2015/330), arts. 1(2), **3(3)(c)** (with arts. 5-10)
- F358** S. 113B(5A) inserted (S.) (11.1.2008) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), **ss. 80**, 101(2) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F359** Words in s. 113B(5A) repealed (S.) (10.9.2015) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015 (S.S.I. 2015/330), arts. 1(2), **3(3)(d)** (with arts. 5-10)
- F360** S. 113B(6) repealed (S.) (10.9.2015) by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015 (S.S.I. 2015/330), arts. 1(2), **3(3)(e)** (with arts. 5-10)

<sup>F11</sup>  
<sup>F54</sup> **Suitability information relating to children** **E+W+NI**

**113BA**

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.
- (2) Suitability information relating to children is—
- (a) whether the applicant is barred from regulated activity relating to children;
- <sup>F55</sup>(b) .....
- <sup>F55</sup>(c) .....
- <sup>F55</sup>(d) .....
- <sup>F56</sup>(e) [ whether the applicant is subject to a direction under <sup>F57</sup>section 128 of the Education and Skills Act 2008 (prohibition on participation in management of independent educational institution in England) or] section 167A of the Education Act 2002 (prohibition on participation in management of independent school [<sup>F58</sup>in Wales]).]
- (3) Expressions used in this section and in the 2006 Act have the same meaning in this section as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.
- (4) “The 2006 Act” means the Safeguarding Vulnerable Groups Act 2006.]

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F54** Ss. 113BA-113BC inserted (E.W.N.I.) (22.6.2009 for specified purposes, 12.10.2009 for E.W. in so far as not already in force, 12.10.2009 for N.I. in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), [s. 65](#), [Sch. 9 para. 14\(4\)](#) (with [ss. 51](#), [57\(3\)](#), [60\(4\)](#), [64\(5\)](#)); [S.I. 2009/1503](#), [art. 2\(a\)](#); [S.I. 2009/2610](#), [art. 2\(a\)](#) (with [arts. 4-23](#)); [S.I. 2009/2611](#), [art. 2](#), [Sch.](#); [S.I. 2009/1503](#), [art. 2\(a\)](#); [S.I. 2009/2610](#), [art. 2\(a\)](#) (with [arts. 4-23](#)); [S.I. 2009/2611](#), [art. 2](#), [Sch.](#)
- F55** S. 113BA(2)(b)-(d) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [s. 120](#), [Sch. 9 para. 38](#), [Sch. 10 Pt. 5](#); [S.I. 2012/2234](#), [art. 2\(aa\)\(i\)](#)
- F56** S. 113BA(2)(e) inserted (12.10.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 170\(2\)](#), [188\(3\)](#); [S.I. 2009/2545](#), [art. 3\(1\)\(b\)](#)
- F57** Words in s. 113BA(2)(e) inserted (8.9.2014) by [Education and Skills Act 2008 \(c. 25\)](#), [s. 173\(4\)](#), [Sch. 1 para. 12\(a\)](#); [S.I. 2014/2379](#), [art. 2\(h\)](#)
- F58** Words in s. 113BA(2)(e) inserted (8.9.2014) by [Education and Skills Act 2008 \(c. 25\)](#), [s. 173\(4\)](#), [Sch. 1 para. 12\(b\)](#); [S.I. 2014/2379](#), [art. 2\(h\)](#)

### Modifications etc. (not altering text)

- C12** S. 113BA modified (temp.) (N.I.) (with application in accordance with arts. 2, 11 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), [art. 12](#)
- C13** S. 113BA modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), [art. 6](#)

## <sup>F301</sup> <sub>F361</sub> **Information held outside the United Kingdom** **S**

- 113BA**
- (1) The Scottish Ministers may by order made by statutory instrument amend the definition of—
- “criminal conviction certificate” in section 112(2),
  - “central records” in sections 112(3) and 113A(6),
  - “criminal record certificate” in section 113A(3),
  - “relevant matter” in section 113A(6),
  - “enhanced criminal record certificate” in section 113B(3).
- (2) An order under subsection (1) may be made only for the purposes of, or in connection with, enabling certificates issued under this Part to include details of information held outside the United Kingdom.
- (3) No order may be made under subsection (1) unless a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Scottish Parliament.]]



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### Textual Amendments

- F301** 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
- F361** S. 113BA inserted (S.) (28.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 108(3)**, 206(1); S.S.I. 2011/157, art. 2(b) (with art. 3)

### <sup>F54</sup> 113BB Suitability information relating to vulnerable adults

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to vulnerable adults.
- (2) Suitability information relating to vulnerable adults is —
- (a) whether the applicant is barred from regulated activity relating to vulnerable adults;
  - <sup>F59</sup>(b) .....
  - <sup>F59</sup>(c) .....
  - <sup>F59</sup>(d) .....
- (3) Expressions used in this section and in the 2006 Act have the same meaning in this section as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.
- (4) “The 2006 Act” means the Safeguarding Vulnerable Groups Act 2006.

### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F54** Ss. 113BA-113BC inserted (E.W.N.I.) (22.6.2009 for specified purposes, 12.10.2009 for E.W. in so far as not already in force, 12.10.2009 for N.I. in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 9 para. 14(4)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/1503, art. 2(a); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.; S.I. 2009/1503, art. 2(a); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.
- F59** S. 113BB(2)(b)-(d) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 39, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)

### Modifications etc. (not altering text)

- C14** S. 113BB modified (temp.) (N.I.) (with application in accordance with arts. 2, 11 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 13**
- C15** S. 113BB modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 7**

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### 113BC Suitability information: power to amend

- (1) The Secretary of State may by order made by statutory instrument—
- (a) amend section 113BA for the purpose of altering the meaning of suitability information relating to children;
  - (b) amend section 113BB for the purpose of altering the meaning of suitability information relating to vulnerable adults <sup>F60</sup>;
  - (c) amend section 120AC(4)(b) in consequence of an order made under paragraph (a) or (b).]
  - <sup>F61</sup> [ amend section 120AC(4)(b) in consequence of an order made under paragraph (a) or (b).]
- (2) Such an order is subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F54** Ss. 113BA-113BC inserted (E.W.N.I.) (22.6.2009 for specified purposes, 12.10.2009 for E.W. in so far as not already in force, 12.10.2009 for N.I. in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), [s. 65](#), [Sch. 9 para. 14\(4\)](#) (with [ss. 51](#), [57\(3\)](#), [60\(4\)](#), [64\(5\)](#)); [S.I. 2009/1503](#), [art. 2\(a\)](#); [S.I. 2009/2610](#), [art. 2\(a\)](#) (with [arts. 4-23](#)); [S.I. 2009/2611](#), [art. 2](#), [Sch.](#); [S.I. 2009/1503](#), [art. 2\(a\)](#); [S.I. 2009/2610](#), [art. 2\(a\)](#) (with [arts. 4-23](#)); [S.I. 2009/2611](#), [art. 2](#), [Sch.](#)
- F60** S. 113BC(1)(c) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [s. 120](#), [Sch. 9 para. 105](#) (with [s. 97](#)); [S.I. 2012/2234](#), [art. 2\(aa\)\(vi\)](#)
- F61** S. 113BC(1)(c) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [s. 106\(2\)](#), [Sch. 5 para. 3](#); [S.R. 2015/358](#), [art. 2\(m\)\(i\)](#)

### <sup>F62</sup> 113CA Suitability information relating to children

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.
- (2) Suitability information relating to children is—
- (a) whether the applicant is barred from regulated work with children;
  - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
  - (c) whether the Scottish Ministers are considering whether to list the individual in the children's list;
  - <sup>F63</sup> (d) .....
  - <sup>F64</sup> [ if a notification order, made under section 97(5) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the date of that order; and
  - (ii) the notification period applying to the applicant by virtue of section 98(1)(b) of that Act;

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- (f) if an interim notification order, made under section 100(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the date of that order; and
  - (ii) the period for which that order has effect by virtue of section 100(4) of that Act;
- <sup>F65</sup>(fa)
  - l if a sexual harm prevention order, made under section 103A of the Sexual Offences Act 2003, is in effect in respect of the applicant—
    - (i) the prohibitions described in that order;
    - (ii) the date of that order;
    - (iii) the period for which the prohibitions have effect by virtue of section 103C(2) or 103D(1) of that Act;
    - (iv) details as to whether the order has been varied or renewed under section 103E(5) of that Act;
- (fb) if an interim sexual harm prevention order, made under section 103F of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 103F(4) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 103F(5) of that Act;]
- (g) if a sexual offences prevention order, made under section 104(1) or 105(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 107(1) (b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 108(4) of that Act;
- (h) if an interim sexual offences prevention order, made under section 109(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 109(4) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 109(6) of that Act;
- (i) if a foreign travel order, made under section 114(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions specified in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 117(1) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 118(3) of that Act;
- <sup>F66</sup>(ia)
  - l if a sexual risk order, made under section 122A of the Sexual Offences Act 2003, is in effect in respect of the applicant—
    - (i) the prohibitions described in that order;

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- (ii) the date of that order;
- (iii) the period for which the prohibitions have effect by virtue of section 122A(7) or 122C(1) of that Act;
- (iv) details as to whether the order has been varied or renewed under section 122D(4) of that Act;
- (ib) if an interim sexual risk order, made under section 122E of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 122E(4) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 122E(5) of that Act;]
- (j) if a risk of sexual harm order, made under section 123(4) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 123(5) (b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 125(3) of that Act;
- (k) if an interim risk of sexual harm order, made under section 126(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 126(4) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 126(5) of that Act;
- (l) if a risk of sexual harm order, made under section 2(6) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 2(7)(b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 4(3) of that Act;
- (m) if an interim risk of sexual harm order, made under section 5(3) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 5(5) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 5(6) of that Act.]

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### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F62** Ss. 113CA-113CC inserted (S.) (18.4.2010 for specified purposes, 28.2.2011 in so far as not already in force) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 29** (with ss. 90, 99); S.S.I. 2010/133, art. 2, sch.; S.S.I. 2011/157, art. 2(a) (with art. 3)
- F63** S. 113CA(2)(d) repealed (S.) (28.2.2011) by [The Police Act 1997 \(Alteration of the Meaning of Suitability Information relating to Children and Protected Adults\) \(Scotland\) \(No. 2\) Order 2010 \(S.S.I. 2010/382\)](#), arts. 1, 2
- F64** S. 113CA(2)(e)-(m) inserted (S.) (28.2.2011) by [The Police Act 1997 \(Alteration of the Meaning of Suitability Information relating to Children and Protected Adults\) \(Scotland\) Order 2010 \(S.S.I. 2010/190\)](#), arts. 1, 2
- F65** S. 113CA(2)(fa)(fb) inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 53(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F66** S. 113CA(2)(ia)(ib) inserted (8.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 53(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

### 113CB Suitability information relating to protected adults

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to protected adults.
- (2) Suitability information relating to protected adults is—
- (a) whether the applicant is barred from regulated work with adults;
  - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
  - (c) whether the Scottish Ministers are considering whether to list the individual in the adults' list;
  - <sup>F67</sup>(d) .....
  - <sup>F68</sup>(e) [ if a notification order, made under section 97(5) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
    - (i) the date of that order; and
    - (ii) the notification period applying to the applicant by virtue of section 98(1)(b) of that Act;
  - (f) if an interim notification order, made under section 100(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
    - (i) the date of that order; and
    - (ii) the period for which that order has effect by virtue of section 100(4) of that Act;
  - <sup>F69</sup>(fa) [ if a sexual harm prevention order, made under section 103A of the Sexual Offences Act 2003, is in effect in respect of the applicant—
    - (i) the prohibitions described in that order;
    - (ii) the date of that order;

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- (iii) the period for which the prohibitions have effect by virtue of section 103C(2) or 103D(1) of that Act;
- (iv) details as to whether the order has been varied or renewed under section 103E(5) of that Act;
- (fb) if an interim sexual harm prevention order, made under section 103F of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 103F(4) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 103F(5) of that Act;]
- (g) if a sexual offences prevention order, made under section 104(1) or 105(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 107(1) (b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 108(4) of that Act;
- (h) if an interim sexual offences prevention order, made under section 109(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 109(4) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 109(6) of that Act;
- (i) if a foreign travel order, made under section 114(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions specified in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect virtue of section 117(1) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 118(3) of that Act;
- <sup>F70</sup>(ia) [ if a sexual risk order, made under section 122A of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which the prohibitions have effect by virtue of section 122A(7) or 122C(1) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 122D(4) of that Act;
- (ib) if an interim sexual risk order, made under section 122E of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;

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- (iii) the period for which that order has effect by virtue of section 122E(4) of that Act;
  - (iv) details as to whether the order has been varied or renewed under section 122E(5) of that Act;]
- (j) if a risk of sexual harm order, made under section 123(4) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 123(5) (b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 125(3) of that Act;
- (k) if an interim risk of sexual harm order, made under section 126(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 126(4) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 126(5) of that Act;
- (l) if a risk of sexual harm order, made under section 2(6) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 2(7)(b) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 4(3) of that Act;
- (m) if an interim risk of sexual harm order, made under section 5(3) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
  - (i) the prohibitions described in that order;
  - (ii) the date of that order;
  - (iii) the period for which that order has effect by virtue of section 5(5) of that Act; and
  - (iv) details as to whether that order has been varied or renewed under section 5(6) of that Act.]

#### Textual Amendments

**F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

- F62** Ss. 113CA-113CC inserted (S.) (18.4.2010 for specified purposes, 28.2.2011 in so far as not already in force) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 29** (with ss. 90, 99); S.S.I. 2010/133, art. 2, sch.; S.S.I. 2011/157, art. 2(a) (with art. 3)
- F67** S. 113CB(2)(d) repealed (S.) (28.2.2011) by The Police Act 1997 (Alteration of the Meaning of Suitability Information relating to Children and Protected Adults) (Scotland) (No. 2) Order 2010 (S.S.I. 2010/382), arts. 1, 3
- F68** S. 113CB(2)(e)-(m) inserted (S.) (28.2.2011) by The Police Act 1997 (Alteration of the Meaning of Suitability Information relating to Children and Protected Adults) (Scotland) Order 2010 (S.S.I. 2010/190), arts. 1, 3
- F69** S. 113CB(2)(fa)(fb) inserted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 54(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)
- F70** S. 113CB(2)(ia)(ib) inserted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 54(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

### 113CC Suitability information: supplementary

- (1) The Scottish Ministers may by order made by statutory instrument—
- (a) amend section 113CA for the purpose of altering the meaning of suitability information relating to children;
  - (b) amend section 113CB for the purpose of altering the meaning of suitability information relating to protected adults.
- (2) Such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (3) Expressions used in sections 113CA and 113CB and in the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) have the same meaning in those sections as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.]

#### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 163(2), 178(4)(d)(8)**; S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F62** Ss. 113CA-113CC inserted (S.) (18.4.2010 for specified purposes, 28.2.2011 in so far as not already in force) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 29** (with ss. 90, 99); S.S.I. 2010/133, art. 2, sch.; S.S.I. 2011/157, art. 2(a) (with art. 3)

### <sup>F71</sup>113C Criminal record certificates: suitability relating to children

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#### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified



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purposes) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2

- F71** Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, Sch. 10 (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(b) (with arts. 4-23)
- Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\)](#), art. 1(3), Sch. 8 (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/304, art. 3(a)
- Ss. 113C-113F repealed (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 30** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

**F71 113D Criminal record certificates: suitability relating to adults**

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**Textual Amendments**

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 163(2)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(a); S.I. 2006/2182, art. 2; S.I. 2007/3064, art. 2; S.I. 2008/306, art. 2; S.I. 2008/697, art. 2(a); S.I. 2015/188, art. 2
- F71** Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, Sch. 10 (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(b) (with arts. 4-23)
- Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\)](#), art. 1(3), Sch. 8 (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/304, art. 3(a)
- Ss. 113C-113F repealed (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 30** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

**F72 [F71] 113E Criminal record certificates: specified children's and adults' lists: urgent cases**

- (1) Subsection (2) applies to an application under section 113A or 113B if—
- (a) it is accompanied by a children's suitability statement,
  - (b) the registered person requests an urgent preliminary response, and
  - (c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.
- (2) [F73]The Secretary of State[[F73]DBS] must notify the registered person—
- (a) if the applicant is not included in a specified children's list, of that fact;
  - (b) if the applicant is included in such a list, of the details prescribed for the purposes of section 113C(1)(b) above;
  - (c) if the applicant is not subject to a specified children's direction, of that fact;
  - (d) if the applicant is subject to such a direction, of the grounds on which the direction was given and the details prescribed for the purposes of section 113C(1)(d) above.
- (3) Subsection (4) applies to an application under section 113A or 113B if—

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- (a) it is accompanied by an adults' suitability statement,
  - (b) the registered person requests an urgent preliminary response, and
  - (c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.
- (4) <sup>F74</sup>The Secretary of State<sup>F74</sup> [DBS] must notify the registered person either—
- (a) that the applicant is not included in a specified adults' list, or
  - (b) that a criminal record certificate or enhanced criminal record certificate will be issued in due course.
- (5) In this section—
- “criminal record certificate” has the same meaning as in section 113A;
  - “enhanced criminal record certificate” has the same meaning as in section 113B;
  - “children's suitability statement” “, specified children's direction” and “specified children's list” have the same meaning as in section 113C;
  - “adults' suitability statement” and “specified adults' list” have the same meaning as in section 113D.]

#### Textual Amendments

- F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#); [S.I. 2015/188](#), [art. 2](#)
- F71** Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, Sch. 10 (with ss. 51, 57(3), 60(4), 64(5)); [S.I. 2009/2610](#), [art. 2\(b\)](#) (with arts. 4-23)
- Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\)](#), [art. 1\(3\)](#), Sch. 8 (with arts. 2(4), 53, 57(3), 61(4)); [S.R. 2009/304](#), [art. 3\(a\)](#)
- Ss. 113C-113F repealed (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 30](#) (with ss. 90, 99); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with art. 3)
- F72** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 163\(2\)](#), [178\(4\)\(d\)\(8\)](#); [S.S.I. 2006/166](#), [art. 2\(1\)\(c\)](#); [S.I. 2006/378](#), [art. 7\(a\)](#); [S.I. 2006/2182](#), [art. 2](#); [S.I. 2007/3064](#), [art. 2](#); [S.I. 2008/306](#), [art. 2](#); [S.I. 2008/697](#), [art. 2\(a\)](#)
- F73** Words in s. 113E(2) 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\(d\)](#) (with Pt. 4)
- F74** Words in s. 113E(4) 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\(d\)](#) (with Pt. 4)

#### Modifications etc. (not altering text)

- C16** S. 113E modified (temp.) (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\)](#), [arts. 1\(1\)](#), 14

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**C17** S. 113E modified (10.9.2012) by [The Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#), **arts. 1(1)**, 8

**<sup>F71</sup>113F Criminal record certificates: supplementary**

.....]

**Textual Amendments**

**F11** Ss. 113A-113F inserted (1.4.2006 for S. except for the insertion of s. 113E, 6.4.2006 for E.W. for specified purposes, 25.9.2006 for E.W. for specified purposes, 12.11.2007 for E.W. for specified purposes, 29.2.2008 for E.W. for specified purposes, 1.4.2008 for N.I., 9.3.2015 for E.W. for specified purposes) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 163(2)**, 178(4)(d)(8); [S.S.I. 2006/166](#), art. 2(1)(c); [S.I. 2006/378](#), art. 7(a); [S.I. 2006/2182](#), art. 2; [S.I. 2007/3064](#), art. 2; [S.I. 2008/306](#), art. 2; [S.I. 2008/697](#), art. 2(a); [S.I. 2015/188](#), art. 2

**F71** Ss. 113C-113F repealed (E.W.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, Sch. 10 (with ss. 51, 57(3), 60(4), 64(5)); [S.I. 2009/2610](#), art. 2(b) (with arts. 4-23)  
Ss. 113C-113F repealed (N.I.) (12.10.2009 for the repeal of ss. 113C, 113D, 113F) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\)](#), art. 1(3), Sch. 8 (with arts. 2(4), 53, 57(3), 61(4)); [S.R. 2009/304](#), art. 3(a)  
Ss. 113C-113F repealed (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 30** (with ss. 90, 99); [S.S.I. 2011/157](#), art. 2(a) (with art. 3)

**114 Criminal record certificates: Crown employment.**

- (1) [<sup>F75</sup>The Secretary of State][<sup>F75</sup>DBS] shall issue a criminal record certificate to any individual who—
- (a) makes an application under this section <sup>F76</sup> ...,
  - [<sup>F77</sup>(aa) is aged 16 or over at the time of making the application,]
  - [<sup>F78</sup>(aa) except in prescribed circumstances, is aged 16 or over at the time of making the application,] and
  - [<sup>F79</sup>(b) pays in the prescribed manner any prescribed fee]
- (2) An application under this section must be accompanied by a statement by [<sup>F80</sup>a Minister of the Crown][<sup>F80</sup>a person mentioned in subsection (2A)] 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.

[<sup>F81</sup>(2A) Any of the following persons may make a statement for the purposes of subsection (2)

- (a) a Minister of the Crown;
  - (b) a member of the Scottish Executive;
  - (c) any other office-holder in the Scottish Administration; or
  - (d) a nominee of any person mentioned in paragraphs (a) to (c).]
- (3) [<sup>F82</sup>[<sup>F83</sup>Section 113A(3) to (6)]] [<sup>F82</sup>Sections 113A(3) to (6), 120AC and 120AD] shall apply in relation to this section with any necessary modifications.

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

**Textual Amendments**

- F75** Words in s. 114(1) 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(e)** (with Pt. 4)
- F76** Words in s. 114(1)(a) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), **ss. 79(1), 101(2)** (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. 97(3), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F77** S. 114(1)(aa) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 80(1), 120** (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F78** S. 114(1)(aa) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 38(1), 106(2)**; S.R. 2015/358, art. 2(c)
- F79** S. 114(1)(b) substituted (S.) (7.2.2006) by [The Police Act 1997 Amendment \(Scotland\) Order 2006 \(S.S.I. 2006/50\)](#), arts. 1(1), **2(3)(b)**
- F80** Words in s. 114(2) substituted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 31(a)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F81** S. 114(2A) inserted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 31(b)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F82** Words in s. 114(3) substituted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 106** (with s. 97); S.I. 2012/2234, art. 2(aa)(vi); and substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 4**; S.R. 2015/358, art. 2(m)(i)
- F83** Words in s. 114(3) substituted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 9 para. 14(5)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.; and substituted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 31(c)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

**Commencement Information**

- I4** 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**
- I5** S. 114 in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), **art. 2(g)**

<sup>F84</sup> **115 Enhanced criminal record certificates. E+W+N.I.**

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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**

- F84** S. 115 repealed (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 163(1), 178(4)(d)(8), **Sch. 17 Pt. 2**; S.S.I. 2006/166, art. 2(1)(c)(d); S.I. 2006/378, art. 7(a)(f)

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

<sup>F84</sup><sup>F301</sup> **11 Enhanced criminal record certificates.** **S**

.....]

**Extent Information**

**E9** 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**

**F84** S. 115 repealed (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005](#) (c. 15), ss. 163(1), 178(4)(d)(8), [Sch. 17 Pt. 2](#); S.S.I. 2006/166, art. 2(1)(c)(d); S.I. 2006/378, art. 7(a)(f)

**F301** 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

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

(1) <sup>F85</sup>The Secretary of State<sup>F85</sup> <sup>F85</sup>DBS] shall issue an enhanced criminal record certificate to any individual who—

(a) makes an application under this section <sup>F86</sup> ...,

<sup>F87</sup>(aa) is aged 16 or over at the time of making the application,]

<sup>F88</sup>(aa) except in prescribed circumstances, is aged 16 or over at the time of making the application,] and

<sup>F89</sup>(b) pays in the prescribed manner any prescribed fee]

(2) An application under this section must be accompanied by a statement by <sup>F90</sup>a Minister of the Crown, or a person nominated by a Minister of the Crown, <sup>F90</sup> a person mentioned in subsection (2A)] 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 <sup>F91</sup> to which subsection (3) or (4) of section 115 applies <sup>F91</sup> of such description as may be prescribed].

<sup>F92</sup>(2A) Any of the following persons may make a statement for the purposes of subsection (2)

(a) a Minister of the Crown;

(b) a member of the Scottish Executive;

(c) any other office-holder in the Scottish Administration; or

(d) a nominee of any person mentioned in paragraphs (a) to (c).]

(3) <sup>F93</sup>Sections 113B(3) to (11) <sup>F94</sup> and <sup>F95</sup>113BA to 113BC <sup>F94</sup>, 113BA to 113BC, 120AC and 120AD <sup>F96</sup> 113CA to 113CC] shall apply in relation to this section with any necessary modifications.

**Textual Amendments**

**F85** Words in s. 116(1) 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(f)** (with Pt. 4)

*Status: Point in time view as at 02/11/2015.*

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- F86** Words in s. 116(1)(a) repealed (S.) (11.1.2008) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), **ss. 79(1), 101(2)** (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.; and words repealed (E.W.N.I.) (29.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 97(3), 116(1), **Sch. 8 Pt. 8**; S.I. 2010/125, art. 2(n)(u)
- F87** S. 116(1)(aa) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), **ss. 80(1), 120** (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F88** S. 116(1)(aa) inserted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), **ss. 38(1), 106(2)**; S.R. 2015/358, art. 2(c)
- F89** S. 116(1)(b) substituted (S.) (7.2.2006) by The Police Act 1997 Amendment (Scotland) Order 2006 (S.S.I. 2006/50), arts. 1(1), **2(4)(b)**
- F90** Words in s. 116(2) substituted (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 32(a)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F91** Words in s. 116(2)(b) substituted (E.W.N.I.) (29.1.2004 for specified purposes for E.W., 6.4.2006 for E.W. in so far as not already in force, 1.4.2008 for N.I.) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 35 para. 5**; S.I. 2004/81, art. 4(1)(2)(o)(ii); S.I. 2006/751, art. 2(c)(i); S.I. 2008/694, art. 2
- F92** S. 116(2A) inserted (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 32(b)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)
- F93** Words in s. 116(3) substituted (1.4.2006 for S., 6.4.2006 for E.W., 1.4.2008 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 3(b)**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2008/697, art. 2(e)
- F94** Words in s. 116(3) substituted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 107** (with s. 97); S.I. 2012/2234, art. 2(aa)(vi); and substituted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 5**; S.R. 2015/358, art. 2(m)(i)
- F95** Words in s. 116(3) substituted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, Sch. 9 para. 14(6) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.
- F96** Words in s. 116(3) substituted (S.) (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **sch. 4 para. 32(c)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

#### Modifications etc. (not altering text)

- C18** S. 116 modified (temp.) (N.I.) (with application in accordance with arts. 2, 14 of the amending Order) by Safeguarding Vulnerable Groups (Regulated Activity, Transitional Provisions and Commencement No. 4) Order (Northern Ireland) 2009 (S.R. 2009/304), **art. 15** (which modifying provision is revoked (10.9.2012) by The Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order (Northern Ireland) 2012 (S.R. 2012/320), arts. 1, 4)
- C19** S. 116 modified (E.W.) (10.9.2012) by The Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157), arts. 1(1), **9**
- C20** S. 116 modified (N.I.) (temp.) (10.9.2012) by The Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order (Northern Ireland) 2012 (S.R. 2012/320), arts. 1, **5, 7**

#### Commencement Information

- I6** 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
- I7** S. 116 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(h)**

[<sup>F97</sup> **116Z** Copies of criminal record certificate or enhanced criminal record certificate

(1) Subsection (2) applies where—

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- (a) the Scottish Ministers issue a criminal record certificate or an enhanced criminal record certificate, and
  - (b) the certificate does not include details of a conviction for an offence listed in schedule 8B which is—
    - (i) a spent conviction, but
    - (ii) not a protected conviction.
- (2) The Scottish Ministers must send a copy of the certificate to the relevant person at the same time as they issue the certificate.
- (3) Subsections (4) and (5) apply where—
- (a) the Scottish Ministers issue a criminal record certificate or an enhanced criminal record certificate to an individual, and
  - (b) the certificate includes details of a conviction for an offence listed in schedule 8B which is—
    - (i) a spent conviction, but
    - (ii) not a protected conviction.
- (4) Where—
- (a) the individual notifies the Scottish Ministers before the end of the period mentioned in section 116ZB(3)(a) that the individual does not intend to make an application under section 116ZB(2), or
  - (b) that period expires without the individual having notified the Scottish Ministers that the individual does intend to make such an application
- the Scottish Ministers must send a copy of the certificate to the relevant person as soon as possible after receiving the notification or, as the case may be, the expiry of that period.
- (5) The Scottish Ministers must not send a copy of the certificate to the relevant person if the individual notifies the Scottish Ministers before the end of the period mentioned in section 116ZB(3)(a) that the individual intends to make an application under section 116ZB(2).
- (6) In this section, “relevant person” means—
- (a) in relation to a criminal record certificate issued under section 113A(1) or an enhanced criminal record certificate issued under section 113B(1), the person who countersigned the application for the certificate under section 113A(2) (a) or, as the case may be, 113B(2)(a),
  - (b) in relation to a criminal record certificate issued under section 114(1) or an enhanced criminal record certificate issued under section 116(1), the person who made the statement in relation to the certificate under section 114(2) or, as the case may be, 116(2).

#### **Textual Amendments**

**F97** Ss. 116ZA, 116ZB inserted (S.) (10.9.2015) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial Order 2015 \(S.S.I. 2015/330\)](#), arts. 1(2), **3(4)** (with arts. 5-10)

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

### **116ZB Application for an order for a new criminal record certificate or enhanced criminal record certificate**

- (1) This section applies where—
  - (a) the Scottish Ministers issue a criminal record certificate or an enhanced criminal record certificate to an individual, and
  - (b) the certificate includes details of a conviction for an offence listed in schedule 8B which is—
    - (i) a spent conviction, but
    - (ii) not a protected conviction.
- (2) The individual may apply to the sheriff for an order requiring the Scottish Ministers to issue a new certificate that does not include those details.
- (3) An application under subsection (2)—
  - (a) may only be made if the individual, before the end of the period of 10 working days beginning with the date of the issue of the certificate, notifies the Scottish Ministers of an intention to make the application, and
  - (b) must be made before the end of the period of 6 months beginning with the date on which that notification is given.
- (4) No finding of fact on which a conviction is based may be challenged in an application under subsection (2).
- (5) Proceedings in an application under subsection (2) may take place in private if the sheriff considers it appropriate in all the circumstances.
- (6) In determining an application under subsection (2) the sheriff must—
  - (a) if satisfied that the details are not relevant to the purpose for which the certificate was required, allow the application,
  - (b) otherwise, refuse the application.
- (7) The sheriff may allow the application in part where it relates to details in relation to two or more convictions.
- (8) The decision of the sheriff on an application is final.
- (9) Where the sheriff allows the application, the sheriff must order the Scottish Ministers—
  - (a) to issue a new certificate to the individual as if the individual had made the application for the certificate under section 113A(1), 113B(1), 114(1) or, as the case may be, 116(1) on the date on which the sheriff makes the order,
  - (b) to exclude from that certificate the details which the sheriff is satisfied are not relevant.
- (10) Where the sheriff refuses the application—
  - (a) the Scottish Ministers must issue a new certificate to the individual as if the individual had made the application for the certificate under section 113A(1), 113B(1), 114(1) or, as the case may be, 116(1) on the date on which the sheriff makes the order,
  - (b) the individual may not make an application under subsection (2) in relation to the details of the conviction in connection with the new certificate (or any subsequent certificate issued in relation to the original certificate application).



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- (11) In subsection (10)(b), the “original certificate application” is the application for the certificate mentioned in subsection (1)(a).
- (12) Sections 116ZA and 117 apply to a new certificate issued under subsection (9) or (10) (a) as if the certificate had been issued under section 113A(1), 113B(1), 114(1) or, as the case may be, 116(1).]

#### Textual Amendments

**F97** Ss. 116ZA, 116ZB inserted (S.) (10.9.2015) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial Order 2015 \(S.S.I. 2015/330\)](#), arts. 1(2), **3(4)** (with arts. 5-10)

#### [<sup>F98</sup>116A Up-dating certificates

- (1) [<sup>F99</sup>DBS] must, on the request of a relevant person and subject to subsection (2), give up-date information to that person about—
  - (a) a criminal conviction certificate,
  - (b) a criminal record certificate, or
  - (c) an enhanced criminal record certificate,which is subject to up-date arrangements.
- (2) [<sup>F100</sup>DBS] may impose conditions about—
  - (a) the information to be supplied in connection with such a request for the purpose of enabling the Secretary of State to decide whether the person is a relevant person,
  - (b) any other information to be supplied in connection with such a request.
- (3) For the purposes of subsection (1) a certificate is subject to up-date arrangements if condition A, B or C is met and the arrangements have not ceased to have effect in accordance with a notice given under section 118(3B).
- (4) Condition A is that—
  - (a) the individual who applied for the certificate made an application at the same time to [<sup>F101</sup>DBS] for the certificate to be subject to up-date arrangements,
  - (b) the individual has paid in the prescribed manner any prescribed fee,
  - (c) [<sup>F101</sup>DBS] has granted the application for the certificate to be subject to up-date arrangements, and
  - (d) the period of 12 months beginning with the date on which the grant comes into force has not expired.
- (5) Condition B is that—
  - (a) the individual whose certificate it is has made an application to [<sup>F102</sup>DBS] to renew or (as the case may be) further renew unexpired up-date arrangements in relation to the certificate,
  - (b) the individual has paid in the prescribed manner any prescribed fee,
  - (c) [<sup>F102</sup>DBS] has granted the application,
  - (d) the grant has come into force on the expiry of the previous up-date arrangements, and
  - (e) the period of 12 months beginning with the date on which the grant has come into force has not expired.

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- (6) Condition C is that—
- (a) the certificate was issued under section 117(2) or 117A(5)(b), and
  - (b) the certificate which it superseded—
    - (i) was subject to up-date arrangements immediately before it was superseded, and
    - (ii) would still be subject to those arrangements had it not been superseded.
- (7) [F103DBS] must not grant an application as mentioned in subsection (4)(c) or (5)(c) unless any fee prescribed under subsection (4)(b) or (as the case may be) (5)(b) has been paid in the manner so prescribed.
- (8) In this section “up-date information” means—
- (a) in relation to a criminal conviction certificate or a criminal record certificate—
    - (i) information that there is no information recorded in central records which would be included in a new certificate but is not included in the current certificate, or
    - (ii) advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate,
  - (b) in relation to an enhanced criminal record certificate which includes suitability information relating to children or vulnerable adults—
    - (i) information that there is no information recorded in central records, no information of the kind mentioned in section 113B(4), and no information of the kind mentioned in section 113BA(2) or (as the case may be) 113BB(2), which would be included in a new certificate but is not included in the current certificate, or
    - (ii) advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate, and
  - (c) in relation to any other enhanced criminal record certificate—
    - (i) information that there is no information recorded in central records, nor any information of the kind mentioned in section 113B(4), which would be included in a new certificate but is not included in the current certificate, or
    - (ii) advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate.
- (9) If up-date information is given under subsection (8)(a)(i), (8)(b)(i) or (8)(c)(i) and the certificate to which that information relates is one to which subsection (10) applies, the up-date information must include that fact.
- (10) This subsection applies to a certificate which—
- (a) in the case of a criminal conviction certificate, states that there are no convictions or conditional cautions of the applicant recorded in central records,
  - (b) in the case of a criminal record certificate, is as described in section 120AC(3), and
  - (c) in the case of an enhanced criminal record certificate, is as described in section 120AC(4).
- (11) In this section—
- “central records” has the same meaning as in section 113A,

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- “criminal record certificate” includes a certificate under section 114,  
“enhanced criminal record certificate” includes a certificate under section 116,  
“exempted question” has the same meaning as in section 113A,  
“relevant person” means—
- (a) in relation to a criminal conviction certificate—
    - (i) the individual whose certificate it is, or
    - (ii) any person authorised by the individual,
  - (b) in relation to a criminal record certificate—
    - (i) the individual whose certificate it is, or
    - (ii) any person who is authorised by the individual and is seeking the information for the purposes of an exempted question, and
  - (c) in relation to an enhanced criminal record certificate—
    - (i) the individual whose certificate it is, or
    - (ii) any person who is authorised by the individual and is seeking the information for the purposes of an exempted question asked for a purpose prescribed under section 113B(2)(b).]

#### Textual Amendments

- F98** S. 116A inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 83, 120](#) (with s. 97); [S.I. 2013/1180, art. 2\(b\)](#)
- F99** Word in s. 116A(1) 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\(g\)](#) (with Pt. 4)
- F100** Word in s. 116A(2) 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\(g\)](#) (with Pt. 4)
- F101** Word in s. 116A(4) 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\(g\)](#) (with Pt. 4)
- F102** Word in s. 116A(5) 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\(g\)](#) (with Pt. 4)
- F103** Word in s. 116A(7) 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\(g\)](#) (with Pt. 4)

#### 117 Disputes about [<sup>F104</sup>accuracy of certificates][<sup>F104</sup>certificates and up-date information].

- (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 [<sup>F105</sup>in writing] to [<sup>F106</sup>the Secretary of State][<sup>F106</sup>DBS] for a new certificate.
- [<sup>F107</sup>(1A) Where any person other than the applicant believes that the information contained in a certificate under any of sections 112 to 116 is inaccurate, that person may make an application in writing to [<sup>F108</sup>DBS] for a decision as to whether or not the information is inaccurate.]

*Status: Point in time view as at 02/11/2015.*

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- [<sup>F109</sup>(1A) Where any person other than the applicant believes that the information contained in a certificate under any of sections 112 to 116 is inaccurate, that person may make an application in writing to the Department for a decision as to whether or not the information is inaccurate.]
- [<sup>F110</sup>(1B) Where a person believes that the wrong up-date information has been given under section 116A in relation to the person's certificate, the person may make an application in writing to [<sup>F111</sup>DBS] for corrected up-date information.]
- (2) [<sup>F112</sup>The Secretary of State][<sup>F112</sup>DBS] shall consider any application under this section; and where [<sup>F113</sup>he][<sup>F113</sup>it] is of the opinion that the information in the certificate is inaccurate [<sup>F114</sup>, or that the wrong up-date information has been given,][<sup>F113</sup>he][<sup>F113</sup>it] shall issue a new certificate [<sup>F115</sup>or (as the case may be) corrected up-date information].
- [<sup>F116</sup>(2A) In this section—
- “corrected up-date information”, in relation to a certificate, means information which includes—
- (a) information that the wrong up-date information was given in relation to the certificate on a particular date, and
- (b) new up-date information in relation to the certificate,
- “up-date information” has the same meaning as in section 116A.]
- [<sup>F117</sup>(3) An application under this section may, in particular, request a review of any information contained in a certificate by virtue of section 113B(4).
- (4) The Scottish Ministers, on receiving such a request, must ask the chief officer of the relevant police force who provided that information to reconsider whether the chief officer still [<sup>F118</sup>reasonably believes the information concerned to be] relevant for the purpose in respect of which it was requested.]
- [<sup>F119</sup>(5) This section does not apply to any information which could be the subject of an application under section 116ZB(2).]

#### Textual Amendments

- F104** Words in s. 117 title substituted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 108\(2\)](#) (with s. 97); S.I. 2013/1180, art. 2(e)(i)
- F105** Words in s. 117(1) repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), ss. 79\(2\), 101\(2\)](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F106** Words in s. 117(1) 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\(h\)](#) (with Pt. 4)
- F107** S. 117(1A) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 82\(4\), 120](#) (with s. 97); S.I. 2012/2234, art. 2(u)
- F108** Words in s. 117(1A) 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\(h\)](#) (with Pt. 4)
- F109** S. 117(1A) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), ss. 40\(4\), 106\(2\); S.R. 2015/358, art. 2\(e\)](#)
- F110** S. 117(1B) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 108\(3\)](#) (with s. 97); S.I. 2013/1180, art. 2(e)(i)

*Status: Point in time view as at 02/11/2015.*

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- F111** Words in s. 117(1B) 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(h)** (with Pt. 4)
- F112** Words in s. 117(2) 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(h)** (with Pt. 4)
- F113** Word in s. 117(2) 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), **40** (with Pt. 4)
- F114** Words in s. 117(2) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 108(4)(a)** (with s. 97); S.I. 2013/1180, art. 2(e)(i)
- F115** Words in s. 117(2) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 108(4)(b)** (with s. 97); S.I. 2013/1180, art. 2(e)(i)
- F116** S. 117(2A) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 108(5)** (with s. 97); S.I. 2013/1180, art. 2(e)(i)
- F117** S. 117(3)(4) inserted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 33** (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F118** Words in s. 117(4) substituted (S.) (10.9.2015) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial Order 2015 \(S.S.I. 2015/330\)](#), arts. 1(2), **3(5)(a)** (with arts. 5-10)
- F119** S. 117(5) inserted (S.) (10.9.2015) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial Order 2015 \(S.S.I. 2015/330\)](#), arts. 1(2), **3(5)(b)** (with arts. 5-10)

#### Commencement Information

- I8** 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**
- I9** S. 117 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(i)**

#### [<sup>F120</sup>117A] **Other disputes about section 113B(4) information** **E+W**

- (1) Subsection (2) applies if a person believes that information provided in accordance with section 113B(4) and included in a certificate under section 113B or 116 —
  - (a) is not relevant for the purpose described in the statement under section 113B(2) or (as the case may be) 116(2), or
  - (b) ought not to be included in the certificate.
- (2) The person may apply in writing to the independent monitor appointed under section 119B for a decision as to whether the information is information which falls within subsection (1)(a) or (b) above.
- (3) The independent monitor, on receiving such an application, must ask such chief officer of a police force as the independent monitor considers appropriate to review whether the information concerned is information which—
  - (a) the chief officer reasonably believes to be relevant for the purpose described in the statement under section 113B(2) or (as the case may be) 116(2), and
  - (b) in the chief officer's opinion, ought to be included in the certificate.
- (4) In exercising functions under subsection (3), the chief officer concerned must have regard to any guidance for the time being published under section 113B(4A).
- (5) If, following a review under subsection (3), the independent monitor considers that any of the information concerned is information which falls within subsection (1)(a) or (b)—
  - (a) the independent monitor must inform [<sup>F121</sup>DBS] of that fact, and

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- (b) on being so informed, [<sup>F121</sup>DBS] must issue a new certificate.
- (6) In issuing such a certificate, [<sup>F122</sup>DBS] must proceed as if the information which falls within subsection (1)(a) or (b) had not been provided under section 113B(4).
- (7) In deciding for the purposes of this section whether information is information which falls within subsection (1)(a) or (b), the independent monitor must have regard to any guidance for the time being published under section 113B(4A).
- (8) Subsections (10) and (11) of section 113B apply for the purposes of this section as they apply for the purposes of that section.]

#### Extent Information

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

#### Textual Amendments

- F120** S. 117A inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 82\(5\), 120 \(with s. 97\); S.I. 2012/2234, art. 2\(u\)](#)
- F121** Words in s. 117A(5) 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\(i\) \(with Pt. 4\)](#)
- F122** Words in s. 117A(6) 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\(i\) \(with Pt. 4\)](#)

#### [<sup>F362</sup>117A] **Other disputes about section 113B(4) information** **N.I.**

- (1) Subsection (2) applies if a person believes that information provided in accordance with section 113B(4) and included in a certificate under section 113B or 116—
- is not relevant for the purpose described in the statement under section 113B(2) or (as the case may be) 116(2), or
  - ought not to be included in the certificate.
- (2) The person may apply in writing to the independent monitor appointed under section 119B for a decision as to whether the information is information which falls within subsection (1)(a) or (b).
- (3) The independent monitor, on receiving such an application, must ask such chief officer of a police force as the independent monitor considers appropriate to review whether the information concerned is information which—
- the chief officer reasonably believes to be relevant for the purpose described in the statement under section 113B(2) or (as the case may be) 116(2), and
  - in the chief officer's opinion, ought to be included in the certificate.
- (4) In exercising functions under subsection (3), the chief officer concerned must have regard to any guidance for the time being published under section 113B(4A).
- (5) If, following a review under subsection (3), the independent monitor considers that any of the information concerned is information which falls within subsection (1)(a) or (b)—

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- (a) the independent monitor must inform the Department of that fact, and
  - (b) on being so informed, the Department must issue a new certificate.
- (6) In issuing such a certificate, the Department must proceed as if the information which falls within subsection (1)(a) or (b) had not been provided under section 113B(4).
- (7) In deciding for the purposes of this section whether information is information which falls within subsection (1)(a) or (b), the independent monitor must have regard to any guidance for the time being published under section 113B(4A).
- (8) Subsections (10) and (11) of section 113B apply for the purposes of this section as they apply for the purposes of that section.]

#### Extent Information

**E10** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F362** S. 117A inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), ss. 40\(5\), 106\(2\); S.R. 2015/358, art. 2\(e\)](#)

### 118 Evidence of identity.

- (1) <sup>F123</sup>The Secretary of State<sup>F123</sup>[<sup>F123</sup>DBS] may refuse to issue a certificate under this Part, or to consider <sup>F124</sup>an application as mentioned in section 116A(4)(a) or (5)(a) or an application under section 117 <sup>F125</sup>[<sup>F125</sup>, 117A]<sup>F126</sup>[<sup>F126</sup> or 120], unless the application is supported by such evidence of identity as <sup>F127</sup>he<sup>F127</sup>[<sup>F127</sup>it] may require.
- (2) In particular, <sup>F128</sup>the Secretary of State<sup>F128</sup>[<sup>F128</sup>DBS] 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.
- <sup>F129</sup>(2A) For the purpose of verifying evidence of identity supplied in pursuance of subsection (1) <sup>F130</sup>the Secretary of State<sup>F130</sup>[<sup>F130</sup>DBS] may obtain such information as <sup>F131</sup>he<sup>F131</sup>[<sup>F131</sup>it] thinks is appropriate from data held—
- (a) by the <sup>F132</sup>United Kingdom Passport Agency<sup>F132</sup>[<sup>F132</sup>Identity and Passport Service];
  - (b) by the Driver and Vehicle Licensing Agency;
  - (c) by Driver and Vehicle Licensing Northern Ireland;
  - (d) by the Secretary of State in connection with keeping records of national insurance numbers;
  - (e) by such other persons or for such purposes as is prescribed.]
- <sup>F133</sup>(2B) The Scottish Ministers may require an applicant to have fingerprints taken under subsection (2) only if they are not satisfied by other evidence provided under subsection (1) as to the applicant's identity.]
- <sup>F134</sup>(3) The Scottish Ministers must arrange the destruction of any fingerprints taken in pursuance of subsection (2) as soon as reasonably practicable after they have been used for the purpose mentioned in subsection (1).]

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- [<sup>F135</sup>(3A) [<sup>F136</sup>DBS] by notice given in writing may require a person who has a certificate which is subject to up-date arrangements under section 116A to attend at a place and time specified in the notice to provide fingerprints for the sole purpose of enabling [<sup>F136</sup>DBS] to verify whether information in the possession of [<sup>F136</sup>DBS] that [<sup>F136</sup>DBS] considers may be relevant to the person's certificate does relate to that person.
- (3B) If a person fails to comply with a requirement imposed under subsection (3A), [<sup>F136</sup>DBS] by notice given in writing may inform that person that, from a date specified in the notice, the person's certificate is to cease to be subject to up-date arrangements.]
- (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 [<sup>F137</sup> or 117A] where a new certificate is issued.

### Textual Amendments

- F123** Words in s. 118(1) 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\(j\)](#) (with Pt. 4)
- F124** Words in s. 118(1) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 109\(2\)\(a\)](#) (with s. 97); S.I. 2013/1180, art. 2(e)(ii); and inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 7\(2\)\(a\)](#); S.R. 2015/358, art. 2(m)(ii)
- F125** Word in s. 118(1) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 109\(2\)\(b\)](#) (with s. 97); S.I. 2012/2234, art. 2(aa)(vii); and inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 7\(2\)\(b\)](#); S.R. 2015/358, art. 2(m)(ii)
- F126** Words in s. 118(1) inserted (1.7.2005 for S., 1.7.2005 for E.W., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 164\(2\)](#), [178\(4\)\(d\)\(8\)](#); S.S.I. 2005/358, art. 2(c); S.I. 2005/1521, art. 3(3)(a); S.I. 2008/697, art. 2(b)
- F127** Word in s. 118(1) 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), [41\(a\)](#) (with Pt. 4)
- F128** Words in s. 118(2) 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\(j\)](#) (with Pt. 4)
- F129** S. 118(2A) inserted (1.7.2005 for S., 1.7.2005 for E.W., 1.4.2008 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 164\(3\)](#), [178\(4\)\(d\)\(8\)](#); S.S.I. 2005/358, art. 2(c); S.I. 2005/1521, art. 3(3)(a); S.I. 2008/697, art. 2(b)
- F130** Words in s. 118(2A) 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\(j\)](#) (with Pt. 4)
- F131** Word in s. 118(2A) 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), [41\(b\)](#) (with Pt. 4)
- F132** Words in s. 118(2A)(a) substituted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 34\(a\)](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F133** S. 118(2B) inserted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 34\(b\)](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F134** S. 118(3) substituted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 34\(c\)](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.
- F135** S. 118(3A)(3B) inserted (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 109\(3\)](#) (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F136** Word in s. 118(3A)(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\(j\)](#) (with Pt. 4)



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**F137** Words in s. 118(4) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 109(4)** (with s. 97); S.I. 2012/2234, art. 2(aa)(vii); and inserted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 7(4)**; S.R. 2015/358, art. 2(m)(ii)

#### Commencement Information

- I10** 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**
- I11** S. 118 in force at 1.4.2008 for N.I. by S.I. 2008/692, **art. 2(j)**

### 119 Sources of information.

- (1) Any person who holds records of convictions [F138or cautions][F138], cautions or other information] for the use of police forces generally shall make those records available to [F139the Secretary of State][F139DBS][F140for the purposes of an application [F141(whether for a certificate or for registration)] under this Part.][F140for the purpose of enabling [F142him][F142it] to carry out [F143his functions under this Part in relation to—
- (b) the determination of whether a person should continue to be a registered person.]  
[F143a relevant function]]
- [F144(1ZA) Any person who holds records of convictions or cautions for the use of police forces generally must make those records available to the Disclosure and Barring Service for the purpose of enabling it to carry out its functions under paragraph 1, 2, 7 or 8 of Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.]
- [F145(1A) [F146The Secretary of State may require the [F147Disclosure and Barring Service] to make available specified information for the purpose of enabling the Secretary of State to carry out functions under this Part in relation to—
- (a) any application for a certificate or for registration;
- [F148(aa) the provision of up-date information under section 116A;] or
- (b) the determination of whether a person should continue to be a registered person.]]
- [F149(1B) [F150The Secretary of State][F150DBS] may require the chief officer of a police force to make available such information as [F151he][F151it] may specify for the purpose of [F152determining, in relation to applications under section 113B, whether the police force is a relevant police force][F152deciding whether to make a request to that chief officer under section 113B(4)].]
- (2) Where the chief officer of a police force receives a request under section [F153113B] or 116 [F154... he shall comply with it as soon as practicable.
- [F155(2A) Where, in connection with the provision of up-date information under section 116A, the chief officer of a police force receives a request for information of the kind mentioned in section 113B(4), the chief officer of police must comply with it as soon as practicable.]
- (3) [F156The Secretary of State][F156DBS] shall pay to the appropriate [F157local policing body or] police authority, [F158... [F159such fee as [F160he][F160the Secretary of State] thinks appropriate] for information provided in accordance with [F161subsection (2)][F161section 120A(4) or subsection (2) of this section].

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- (4) Any person who holds records of fingerprints for the use of police forces generally shall make those records available to <sup>F162</sup>the Secretary of State<sup>F162</sup> <sup>F162</sup>DBS<sup>F162</sup> <sup>F140</sup>for the purposes of an application under this Part.<sup>F140</sup> <sup>F140</sup>for the purpose of enabling <sup>F163</sup>him<sup>F163</sup> <sup>F163</sup>it<sup>F163</sup> to carry out <sup>F164</sup>his<sup>F164</sup> <sup>F164</sup>its<sup>F164</sup> functions under this Part in relation to—
- (a) any application for a certificate or for registration;  
<sup>F165</sup>[ any application as mentioned in section 116A(4)(a) or (5)(a);] or  
 (aa) (b) the determination of whether a person should continue to be a registered person.]
- <sup>F166</sup>(4A) DBS may require the Secretary of State to provide it with the information and advice specified in section 113CD(2) to (6) for the purpose of enabling DBS to carry out its functions under section 113CD.]
- <sup>F167</sup>(4A) The Department of Justice may provide to the Disclosure and Barring Service any information it holds for the purposes of this Part in order to enable the Disclosure and Barring Service to determine whether, in relation to any person, paragraph 1, 2, 3, 5, 7, 8, 9 or 11 of Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 applies or appears to apply.]
- (5) No proceedings shall lie against <sup>F168</sup>the Secretary of State<sup>F168</sup> <sup>F168</sup>DBS<sup>F168</sup> <sup>F169</sup>or the Disclosure and Barring Service] by reason of an inaccuracy in the information made available or provided to <sup>F170</sup>him<sup>F170</sup> <sup>F170</sup>it<sup>F170</sup> <sup>F171</sup>or it<sup>F171</sup> in accordance with this section.
- <sup>F172</sup>(6) For the purposes of this section references to a police force include any body mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.
- (7) In the case of such a body the reference in subsection (3) to the appropriate <sup>F173</sup>local policing body or] police authority must be construed as a reference to such body as is prescribed.]
- <sup>F174</sup>(8) In this section a relevant function is a function of <sup>F175</sup>the Secretary of State<sup>F175</sup> <sup>F175</sup>DBS<sup>F175</sup>—
- (a) under this Part in relation to any application for a certificate or for registration;  
<sup>F176</sup>[ under this Part in relation to any request under section 116A(1);]  
 (aa) (b) under this Part in relation to the determination of whether a person should continue to be a registered person;  
<sup>F177</sup>(c) .....  
 (d) <sup>F178</sup>under paragraph 1, 2, 7 or 8 of Schedule 3 to <sup>F179</sup>the Safeguarding Vulnerable Groups Act 2006] (considering whether criteria prescribed for the purpose of that paragraph apply to an individual).]]

#### Textual Amendments

**F138** Words in s. 119(1) substituted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), ss. 78\(3\), 101\(2\)](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 3)

**F139** Words in s. 119(1) 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(k) (with Pt. 4)

**F140** 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)

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- F141** Words in s. 119(1) inserted (S.) (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 70(4), 89(2)**; S.S.I. 2003/288, art. 2, sch.
- F142** Word in s. 119(1) 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), **42(a)** (with Pt. 4)
- F143** Words in s. 119(1) substituted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, Sch. 9 para. 14(7)(a) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, **art. 2(a)** (with arts. 4-23); S.I. 2009/2611, art. 2, **Sch.**
- F144** S. 119(1ZA) inserted (N.I.) (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), **52(2)** (with Pt. 4)
- F145** S. 119(1A) substituted (10.9.2012 for E.W.N.I.) by Policing and Crime Act 2009 (c. 26), s. 116(1), **Sch. 7 para. 118**; S.I. 2012/2235, art. 2(c)
- F146** S. 119(1A) omitted (E.W.) (1.12.2012) by virtue of The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **50(2)** (with Pt. 4)
- F147** Words in s. 119(1A) substituted (N.I.) (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), **13(1)(2)(c)** (with Pt. 4)
- F148** S. 119(1A)(aa) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 110(2)** (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F149** S. 119(1B) inserted (12.10.2009 for E.W., 12.10.2009 for N.I.) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 9 para. 14(7)(b)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, **Sch.**
- F150** Words in s. 119(1B) 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(k)** (with Pt. 4)
- F151** Word in s. 119(1B) 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), **42(b)** (with Pt. 4)
- F152** Words in s. 119(1B) substituted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 110(3)** (with s. 97); S.I. 2012/2234, **art. 2(aa)(viii)**; and substituted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 8(3)**; S.R. 2015/358, **art. 2(m)(iii)**
- F153** Word in s. 119(2) substituted (1.4.2006 for S., 6.4.2006 for E.W.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 4(b)**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c)
- F154** Words in s. 119(2) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 40(2), **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F155** S. 119(2A) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 110(4)** (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F156** Words in s. 119(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(k)** (with Pt. 4)
- F157** Words in s. 119(3) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 223**; S.I. 2011/3019, art. 3, Sch. 1
- F158** 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.**
- F159** Words in s. 119(3) substituted (1.7.2005 for E.W., 1.4.2006 for S., 1.4.2008 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 165(1)(a), 178(4)(d)(8)**; S.I. 2005/1521, art. 3(3)(b); S.S.I. 2006/166, art. 2(1)(c); S.I. 2008/697, art. 2(c)
- F160** Words in s. 119(3) substituted (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), **42(c)** (with Pt. 4)

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- F161** 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)
- F162** Words in s. 119(4) 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(k)** (with Pt. 4)
- F163** Word in s. 119(4) 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), **42(d)(i)** (with Pt. 4)
- F164** Word in s. 119(4) 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), **42(d)(ii)** (with Pt. 4)
- F165** S. 119(4)(aa) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 110(5)** (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F166** S. 119(4A) inserted (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), **50(3)** (with Pt. 4)
- F167** S. 119(4A) inserted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), **ss. 45**, 106(2); S.R. 2015/358, art. 2(g)
- F168** Words in s. 119(5) 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(k)** (with Pt. 4)
- F169** Words in s. 119(5) inserted (N.I.) (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), **52(3)(a)** (with Pt. 4)
- F170** Word in s. 119(5) 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), **42(e)** (with Pt. 4)
- F171** Words in s. 119(5) inserted (N.I.) (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), **52(3)(b)** (with Pt. 4)
- F172** S. 119(6)(7) inserted (1.4.2006 for S., 6.4.2006 for E.W., 1.4.2008 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 165(1)(b)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(d); S.I. 2008/697, art. 2(c)
- F173** Words in s. 119(7) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 223**; S.I. 2011/3019, art. 3, Sch. 1
- F174** S. 119(8) inserted (E.W.N.I.) (12.10.2009 for E.W., 12.10.2009 for N.I.) by Safeguarding Vulnerable Groups Act 2006 (c. 47), s. 65, **Sch. 9 para. 14(7)(d)** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2610, art. 2(a) (with arts. 4-23); S.I. 2009/2611, art. 2, Sch.
- F175** Words in s. 119(8) 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(k)** (with Pt. 4)
- F176** S. 119(8)(aa) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 110(6)** (with s. 97); S.I. 2013/1180, art. 2(e)(ii)
- F177** S. 119(8)(c) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 40(3)(a), **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F178** S. 119(8)(d) omitted (N.I.) (1.12.2012) by virtue of The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **52(4)** (with Pt. 4)
- F179** Words in s. 119(8)(d) substituted (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 40(3)(b), **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)

#### Modifications etc. (not altering text)

- C21** S. 119 modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by Safeguarding Vulnerable Groups (Regulated Activity, Transitional Provisions and Commencement No. 4) Order (Northern Ireland) 2009 (S.R. 2009/304), **art. 8**

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#### Commencement Information

- I12** 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](#)
- I13** S. 119 in force at 1.4.2008 for N.I. by [S.I. 2008/692](#), [art. 2\(k\)](#)

#### [<sup>F180</sup>119A] Further sources of information: Scotland

- (1) Any person who holds, in Scotland, records of convictions [<sup>F181</sup>or other information] for the use of police forces generally shall make those records available to the Scottish Ministers for the purpose of enabling them to carry out their functions under this Part in relation to the determination of whether a person should continue to be a person registered under section 120.
- (2) Where a person holds records of convictions [<sup>F182</sup>, cautions or other information] for the use of police forces generally (but is not required by subsection (1) or section 119(1) to make those records available to the Scottish Ministers) the Scottish Ministers may request that person to make those records available to them <sup>F183</sup>... .
- (3) In subsection (1), “person” does not include—
  - (a) a public body; or
  - (b) a holder of a public office,unless that person is a Scottish public authority (as defined in section 126(1) of the Scotland Act 1998 (c. 46)).
- (4) This section is without prejudice to section 119; and subsection (5) of that section shall apply in relation to records made available in accordance with this section as it does in relation to information made available in accordance with that section.]

#### Textual Amendments

- F180** S. 119A inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003](#) (asp 7), [ss. 70\(5\)](#), [89\(2\)](#); [S.S.I. 2006/168](#), [art. 2](#)
- F181** Words in s. 119A(1) inserted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (asp 14), [ss. 78\(4\)\(a\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))
- F182** Words in s. 119A(2) substituted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (asp 14), [ss. 78\(4\)\(b\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))
- F183** Words in s. 119A(2) repealed (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (asp 14), [s. 101\(2\)](#), [sch. 4 para. 35](#) (with [ss. 90](#), [99](#)); [S.S.I. 2011/157](#), [art. 2\(a\)](#) (with [art. 3](#))

#### [<sup>F184</sup>119B] Independent monitor

- (1) There is to be an independent monitor for the purposes of this Part.
- (2) The independent monitor is a person appointed by the Secretary of State—
  - (a) for such period, not exceeding three years, as the Secretary of State decides;
  - (b) on such terms as the Secretary of State decides.
- (3) A person may be appointed for a further period or periods.
- (4) The Secretary of State may terminate the appointment of the independent monitor before the end of the period mentioned in subsection (2)(a) by giving the monitor notice of the termination not less than three months before it is to take effect.

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[ Before appointing a person to be the independent monitor, or terminating the  
F185(4A) appointment of the independent monitor, the Secretary of State must consult the  
Department of Justice in Northern Ireland.]

(5) The independent monitor must review—

- F186(a) . . . . .
- (b) a sample of cases in which a certificate issued under section 113B has included information in pursuance of subsection (4)(b) of that section;
- (c) a sample of cases in which the chief officer of a police force has decided that information must not be included in a certificate or report in pursuance of section 113B(4)(b) [F187] or disclosed in pursuance of section 113B(5)(c) and (6)(b);

[ a sample of cases in which the chief officer of a police force has decided that  
F188(ca) information should be disclosed or not disclosed to [F189DBS] for the purpose of the provision by [F189DBS] of up-date information under section 116A.]

F190(d) . . . . .

F190(e) . . . . .

(6) The purpose of a review under subsection (5) is to ensure compliance with Article 8 of the European Convention of Human Rights.

(7) The independent monitor must in relation to each year make a report to the Secretary of State about the performance of police forces in exercising their functions under this Part.

(8) The independent monitor may make recommendations to the Secretary of State as to—  
(a) any guidance issued by the Secretary of State or which the monitor thinks it would be appropriate for the Secretary of State to issue;  
(b) any changes to any enactment which the monitor thinks may be appropriate.

[ The independent monitor has the functions conferred on the monitor by section 117A.]  
F191(8A)

[ The independent monitor has the functions conferred on the monitor by section 117A.]  
F192(8A)

(9) The chief officer of a police force must provide to the independent monitor such information as the monitor reasonably requires in connection with the exercise of his functions under this section [F193] or section 117A.]

#### Textual Amendments

- F184** S. 119B inserted (E.W.N.I.) (20.1.2009) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), **ss. 28, 65** (with **ss. 51, 57(3), 60(4), 64(5)**); S.I. 2009/39, art. 2(1)(c)
- F185** S. 119B(4A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 37(2)** (with arts. 28-31)
- F186** S. 119B(5)(a) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 111(2)**, **Sch. 10 Pt. 6** (with s. 97); S.I. 2012/2234, art. 2(aa)(cc)(ix); and repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 9(2)**, **Sch. 9 Pt. 3**; S.R. 2015/358, art. 2(m)(iv)
- F187** Words in s. 119B(5)(c) repealed (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by

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Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 111(3), **Sch. 10 Pt. 6** (with s. 97); S.I. 2012/2234, art. 2(aa)(cc)(ix)

**F188** S. 119B(5)(ca) inserted (E.W.) (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 111(4)** (with s. 97); S.I. 2013/1180, art. 2(e)(ii)

**F189** Word in s. 119B(5)(ca) 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(l) (with Pt. 4)

**F190** S. 119B(5)(d)(e) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 41, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)

**F191** S. 119B(8A) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 111(5)** (with s. 97); S.I. 2012/2234, art. 2(aa)(ix)

**F192** S. 119B(8A) inserted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 9(5)**; S.R. 2015/358, art. 2(m)(iv)

**F193** Words in s. 119B(9) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 111(6) (with s. 97); S.I. 2012/2234, art. 2(aa)(ix); and inserted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 9(6)**; S.R. 2015/358, art. 2(m)(iv)

## 120 Registered persons. **E+W**

(1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by <sup>F194</sup>[DBS] for the purposes of this Part.

<sup>F195</sup>(2) <sup>F196</sup>[DBS] shall include in the register any person who—  
(a) applies to <sup>F197</sup>[it] in writing to be registered, <sup>F198</sup>[and]  
(b) satisfies the conditions in subsections (4) to (6), <sup>F199</sup>...  
<sup>F199</sup>(c) ...]

<sup>F200</sup>(2A) Subsection (2) is subject to—  
(a) regulations under section 120ZA,  
(b) section 120A, and  
(c) section 120AA and regulations made under that section.]

<sup>F201</sup>(3) .....

(4) A person applying for registration under this section must be—  
(a) a body corporate or unincorporate,  
(b) a person <sup>F202</sup>[who is] appointed to an office by virtue of any enactment <sup>F203</sup>[and who, in the case of an individual, is aged 18 or over], or  
(c) an individual <sup>F204</sup>[aged 18 or over] who employs others in the course of a business.

(5) A body applying for registration under this section must satisfy <sup>F205</sup>[DBS] that it—  
(a) is likely to ask exempted questions, or  
(b) is likely to <sup>F206</sup>[act as the registered person in relation to] applications under section <sup>F207</sup>[113A or 113B] at the request of bodies or individuals asking exempted questions.

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- (6) A person, other than a body, applying for registration under this section must satisfy <sup>[F208]</sup>DBS] that he is likely to ask exempted questions.
- (7) In this section “exempted question” has the same meaning as in section <sup>[F209]</sup>113A].

### Extent Information

- E3** This version of this provision extends to England and Wales only; separate versions have been created for Scotland and Northern Ireland only

### Textual Amendments

- F194** Words in s. 120(1) 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(m)** (with Pt. 4)
- F195** S. 120(2) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 35 para. 6(2)**; S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F196** Words in s. 120(2) 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(m)** (with Pt. 4)
- F197** Word in s. 120(2)(a) 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), **43** (with Pt. 4)
- F198** Word in s. 120(2)(a) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 112(2)(b)** (with s. 97); S.I. 2012/2234, art. 2(aa)(x)
- F199** S. 120(2)(c) and word repealed (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 112(2)(c)**, **Sch. 10 Pt. 6** (with s. 97); S.I. 2012/2234, art. 2(aa)(cc)(x)
- F200** S. 120(2A) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 112(3)** (with s. 97); S.I. 2012/2234, art. 2(aa)(x)
- F201** S. 120(3) repealed (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 35 para. 6(3)**, **Sch. 37 Pt. 11**; S.I. 2004/81, art. 4(1)(2)(p); S.I. 2007/3340, art. 2(b)
- F202** Words in s. 120(4)(b) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 80(2)(a)(i)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F203** Words in s. 120(4)(b) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 80(2)(a)(ii)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F204** Words in s. 120(4)(c) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 80(2)(b)**, 120 (with s. 97); S.I. 2012/2234, art. 2(s) (with art. 5)
- F205** Words in s. 120(5) 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(m)** (with Pt. 4)
- F206** Words in s. 120(5)(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), **5**
- F207** Words in s. 120(5)(b) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 6(b)**; S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)



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**F208** Words in s. 120(6) 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(m)** (with Pt. 4)

**F209** Word in s. 120(7) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 6(c)**; [S.S.I. 2006/166](#), art. 2(1)(e); [S.I. 2006/378](#), art. 7(c); [S.I. 2007/3341](#), art. 2(d)

#### Commencement Information

**I14** 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**

### <sup>F301</sup>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 <sup>F363</sup>section 120A and] regulations under subsection (3), the Secretary of State shall include in the register any person who applies to him <sup>F364</sup>... 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,
    - <sup>F365</sup>[ the nomination by—
      - (i) a body corporate or unincorporate; or
      - (ii) a person appointed to an office by virtue of an enactment, whether that body or person is registered or applying to be registered, of an individual to act for it or, as the case may be, him in relation to the countersigning of applications under this Part;
    - (ab) the refusal by the Scottish Ministers, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept any nomination made by virtue of this subsection;
    - (ac) as to the period which must elapse before any person refused registration or removed from the register may apply 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 <sup>F366</sup>[113A or 113B], 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 <sup>F207</sup>[113A or 113B] at the request of bodies or individuals asking exempted questions.

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- (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 [F209 113A].]

**Extent Information**

**E11** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

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**Textual Amendments**

**F207** Words in s. 120(5)(b) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(4\)\(e\)\(8\), Sch. 14 para. 6\(b\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

**F209** Word in s. 120(7) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(4\)\(e\)\(8\), Sch. 14 para. 6\(c\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

**F301** 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

**F363** Words in s. 120(2) inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 70\(6\)\(a\), 89\(2\)](#); S.S.I. 2006/168, art. 2

**F364** Words in s. 120(2) repealed (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), ss. 79\(2\), 101\(2\)](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.

**F365** S. 120(3)(aa)-(ac) inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 70\(6\)\(b\), 89\(2\)](#); S.S.I. 2006/168, art. 2

**F366** Words in s. 120(3)(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. 6\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2007/3341, art. 2(d)

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**Commencement Information**

**I36** 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](#)

**120 Registered persons. 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.

[F195(2) [F367The ] Secretary of State shall include in the register any person who—

- (a) applies to him in writing to be registered, [F368 and ]
- (b) satisfies the conditions in subsections (4) to (6),<sup>F369</sup>...
- <sup>F369</sup>(c) ...]

[F370(2A) Subsection (2) is subject to—

- (a) regulations under section 120ZA,
- (b) section 120A, and
- (c) section 120AA and regulations made under that section.]

<sup>F201</sup>( 3 ) . . . . .

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

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- (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.
- [<sup>F371</sup>(4A) An individual under the age of 18 applying for registration under subsection (4)(b) or (c) must satisfy the Department that there is good reason for being registered.]
- (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 [<sup>F372</sup> act as the registered person in relation to ] applications under section [<sup>F207</sup> 113A or 113B ] 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 [<sup>F209</sup>113A] .

#### Extent Information

- E12** This version of this provision extends to Northern Ireland only; separate versions have been created for England and Wales and Scotland only

#### Textual Amendments

- F195** S. 120(2) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 6\(2\)](#); S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F201** S. 120(3) repealed (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 6\(3\)](#), [Sch. 37 Pt. 11](#); S.I. 2004/81, art. 4(1)(2)(p); S.I. 2007/3340, art. 2(b)
- F207** Words in s. 120(5)(b) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(b\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F209** Word in s. 120(7) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 6\(c\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F367** Word in s. 120(2) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 10\(2\)\(a\)](#); S.R. 2015/358, art. 2(m)(i)
- F368** Word in s. 120(2)(a) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 10\(2\)\(b\)](#); S.R. 2015/358, art. 2(m)(i)
- F369** S. 120(2)(c) and word repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 10\(2\)\(c\)](#), [Sch. 9 Pt. 3](#); S.R. 2015/358, art. 2(m)(i)
- F370** S. 120(2A) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 10\(3\)](#); S.R. 2015/358, art. 2(m)(i)
- F371** S. 120(4A) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 38\(2\)](#), 106(2); S.R. 2015/358, art. 2(c)
- F372** Words in s. 120(5)(b) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 10\(4\)](#); S.R. 2015/358, art. 2(m)(i)

#### Commencement Information

- I37** S. 120 in force at 3.12.2007 for N.I. by S.I. 2007/3342, [art. 2\(a\)](#)

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

## <sup>F210</sup> 120ZA Regulations about registration

- (1) The Secretary of State may by regulations make further provision about registration.
- (2) Regulations under this section may in particular make provision for—
  - (a) the payment of fees,
  - (b) the information to be included in the register,
  - (c) the registration of any person to be subject to conditions,
  - (d) the nomination by—
    - (i) a body corporate or unincorporate, or
    - (ii) a person appointed to an office by virtue of any enactment, of the individuals authorised to act for it or, as the case may be, him in relation to the countersigning of applications under this Part <sup>F211</sup> or the transmitting of applications under section 113A(2A) or 113B(2A)], and
  - (e) the refusal by <sup>F212</sup> the Secretary of State <sup>F212</sup> [DBS], 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.
- (3) The provision which may be made by virtue of subsection (2)(c) includes provision—
  - (a) for the registration or continued registration of any person to be subject to prescribed conditions or, if the regulations so provide, such conditions as <sup>F213</sup> the Secretary of State <sup>F213</sup> [DBS] thinks fit, and
  - (b) for <sup>F213</sup> the Secretary of State <sup>F213</sup> [DBS] to vary or revoke those conditions.
- (4) The conditions imposed by virtue of subsection (2)(c) may in particular include conditions—
  - (a) requiring a registered person, before <sup>F214</sup> acting as the registered person in relation to] an application at an individual's request, to verify the identity of that individual in the prescribed manner,
  - (b) requiring an application under section <sup>F215</sup> 113A or 113B] to be transmitted by electronic means to <sup>F216</sup> the Secretary of State <sup>F216</sup> [DBS] by the <sup>F217</sup> person who acts as the registered person in relation to the application], and
  - (c) requiring a registered person to comply with any code of practice for the time being in force under section 122.]

### Textual Amendments

- F210** S. 120ZA inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 35 para. 7**; S.I. 2004/81, art. 4(1)(2)(o)(i); S.I. 2007/3340, art. 2(b)
- F211** Words in s. 120ZA(2)(d) inserted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), 6(2); and inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 11(2)**; S.R. 2015/358, art. 2(m)(i)
- F212** Words in s. 120ZA(2) 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(n)** (with Pt. 4)
- F213** Words in s. 120ZA(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(n)** (with Pt. 4)
- F214** Words in s. 120ZA(4)(a) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), 6(3)(a); and substituted (N.I.)

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(2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 11(3)(a)**; S.R. 2015/358, art. 2(m)(i)

**F215** Words in s. 120ZA(4)(b) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), **Sch. 14 para. 7**; S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

**F216** Words in s. 120ZA(4) 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(n)** (with Pt. 4)

**F217** Words in s. 120ZA(4)(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), 6(3)(b); and substituted (N.I.) (2.11.2015) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 5 para. 11(3)(b)**; S.R. 2015/358, art. 2(m)(i)

#### Commencement Information

**I15** S. 120ZA in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(b)**

### <sup>F218</sup> **120ZB Regulations about registration**

- (1) The Scottish Ministers may by regulations make further provision about registration.
- (2) Regulations under this section may in particular make provision for—
  - (a) the payment of fees;
  - (b) the information to be included in the register;
  - (c) the registration of any person to be subject to conditions;
  - (d) the nomination by—
    - (i) a body corporate or unincorporated; or
    - (ii) a person appointed to an office by virtue of an enactment, whether that body or person is registered or applying to be registered, of an individual to act for the body or, as the case may be, person in relation to disclosure applications;
  - (e) the refusal by the Scottish Ministers, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept any nomination made by virtue of this section;
  - (f) the refusal by the Scottish Ministers to include persons who, in the opinion of the Scottish Ministers, are likely to act in relation to fewer disclosure applications in any period of 12 months than a minimum number specified in the regulations;
  - (g) the removal from the register of persons who have, in any period of 12 months during which they were registered, acted in relation to fewer disclosure applications than the minimum number specified under paragraph (f);
  - (h) the removal from the register of persons who are, in the opinion of the Scottish Ministers, no longer likely to wish to act in relation to disclosure applications;
  - (i) the removal from the register of any person who has breached any condition of the person's registration; and
  - (j) the period which must elapse before any person refused registration or removed from the register may apply to be included in the register.

<sup>F219</sup> [ The provision which may be made by virtue of subsection (2)(a) includes in particular (2A) provision for—

- (a) the payment of fees in respect of applications to be listed in the register,

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- (b) the payment of different fees in different circumstances,
  - (c) annual or other recurring fees to be paid in respect of registration, and
  - (d) such annual or other recurring fees to be paid in advance or in arrears.
- (2B) Where provision is made under subsection (2)(a) for a fee to be charged in respect of an application to be listed in the register, the Scottish Ministers need not consider the application unless the fee is paid.]
- (3) The provision which may be made by virtue of subsection (2)(c) includes provision—
- (a) for the registration or continued registration of any person to be subject to prescribed conditions or, if the regulations so provide, such conditions as the Scottish Ministers think fit; and
  - (b) for the Scottish Ministers to vary or revoke those conditions.
- (4) In subsection (2), references to acting in relation to disclosure applications are to be read as references to—
- (a) countersigning applications under section 113A or 113B; or
  - (b) making declarations in relation to requests for disclosures under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14).]

#### Textual Amendments

- F218** S. 120ZB inserted (S.) (12.10.2010) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), [ss. 81\(2\)](#), [101\(2\)](#) (with [ss. 90](#), [99](#)); S.S.I. 2010/344, art. 2(a)(iv)
- F219** S. 120ZB(2A)(2B) inserted (S.) (12.10.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 108\(4\)](#), [206\(1\)](#); S.S.I. 2010/344, art. 2(b)(ii)

### [<sup>F220</sup>120A **Refusal and cancellation of registration** [<sup>F221</sup>on grounds related to disclosure] **E** **+W**]

- (1) [<sup>F222</sup>DBS] may refuse to include a person in the register maintained for the purposes of this Part if it appears to [<sup>F223</sup>it] that the registration of that person is likely to make it possible for information to become available to an individual who, in [<sup>F222</sup>DBS's] opinion, is not a suitable person to have access to that information.
- (2) [<sup>F224</sup>DBS] may remove a person from the register if it appears to [<sup>F224</sup>DBS]—
- (a) that the registration of that person is likely to make it possible for information to become available to an individual who, in [<sup>F224</sup>DBS'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.
- (3) In determining for the purposes of this section whether an individual is a suitable person to have access to any information, [<sup>F225</sup>DBS] may have regard, in particular, to—
- (a) any information relating to that person which concerns a relevant matter;
  - [<sup>F226</sup>(b) any information relating to the person of a kind specified in subsection (3A);]
  - (c) any information provided to [<sup>F225</sup>DBS] under subsection (4).
- [ The information is—
- <sup>F227</sup>(3A) (a) whether the person is barred from regulated activity;

*Status: Point in time view as at 02/11/2015.*

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- F228(b) .....
- F228(c) .....
- (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).
- F229(3B) .....
- F229(3C) .....
- (3D) Expressions used in [F230 subsection (3A)] and in the Safeguarding Vulnerable Groups Act 2006 have the same meaning in [F231 that subsection] as in that Act [F232 ....]
- (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 [F233 DBS] to provide [F233 DBS] 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 [F234 a particular applicant for registration, or a particular registered person, acting as the registered person in relation to applications under this Part];
- and
- (c) concerns a matter which [F233 DBS] has notified to the chief officer to be a matter which, in the opinion of [F233 DBS], is relevant to the determination of the suitability of individuals for having access to the information that may be provided in consequence of [F235 a person acting as the registered person in relation to] applications under this Part.
- (5) In this section “relevant matter” has the same meaning as in section [F236 113A].
- [ For the purposes of this section references to a police force include any body
- F237(6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.]
- [ The Secretary of State may by order made by statutory instrument amend
- F238(7) 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.]]

#### Extent Information

- E4** This version of this provision extends to England and Wales only; separate versions have been created for Scotland and Northern Ireland only

#### Textual Amendments

- F220** 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)
- F221** Words in s. 120A inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 35 para. 8; S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

- F222** Words in s. 120A(1) 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(o)** (with Pt. 4)
- F223** Word in s. 120A(1) 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), **44** (with Pt. 4)
- F224** Words in s. 120A(2) 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(o)** (with Pt. 4)
- F225** Words in s. 120A(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(o)** (with Pt. 4)
- F226** S. 120A(3)(b) substituted (10.9.2012 for E.W.N.I.) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 96(2)**, 116(1); S.I. 2012/2235, art. 2(a)
- F227** S. 120A(3A)-(3D) inserted (10.9.2012 for E.W.N.I.) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 96(3)**, 116(1); S.I. 2012/2235, art. 2(a)
- F228** S. 120A(3A)(b)(c) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 42(2), **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F229** S. 120A(3B)(3C) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 42(3), **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F230** Words in s. 120A(3D) substituted (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 42(4)(a)** (with s. 97); S.I. 2012/2234, art. 2(aa)(i)
- F231** Words in s. 120A(3D) substituted (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 42(4)(b)** (with s. 97); S.I. 2012/2234, art. 2(aa)(i)
- F232** Words in s. 120A(3D) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 42(4)(c), **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F233** Words in s. 120A(4) 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(o)** (with Pt. 4)
- F234** Words in s. 120A(4)(b)(iii) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **7(a)**
- F235** Words in s. 120A(4)(c) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), **7(b)**
- F236** Word in s. 120A(5) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 8(b)**; S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F237** S. 120A(6) inserted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 165(2)**, 178(4)(d)(8); S.S.I. 2006/166, **art. 2(1)(c)**; S.I. 2006/378, **art. 7(d)**; S.I. 2007/3341, **art. 2(b)**
- F238** S. 120A(7)(8) inserted (10.9.2012 for E.W.N.I.) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 96(4)**, 116(1); S.I. 2012/2235, art. 2(a)



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*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

#### Modifications etc. (not altering text)

- C22** S. 120A modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), **art. 9**
- C23** 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))

#### Commencement Information

- I16** S. 120A in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), **art. 2(c)**

### <sup>F301</sup> <sub>F373</sub> **120A** Refusal and cancellation of registration: Scotland **S**

- (1) The Scottish Ministers may refuse to include a person in, or may remove a person from, a register maintained under section 120 for the purposes of this Part if it appears to them that the registration of that person is likely to make it possible for information to become available to an individual who, in their opinion, is not a suitable person to have access to that information.
- (2) The Scottish Ministers may also remove a person from any such register if it appears to them that the registration of that person has resulted in information becoming known to such an individual.
- (3) In determining, for the purposes of this section, whether an individual is a suitable person to have access to information, the Scottish Ministers may have regard, in particular, to—
- any information relating to the individual which concerns a relevant matter (“relevant matter” having the same meaning as in section <sup>F374</sup>113A);
  - whether that person is included in any list mentioned in section <sup>F375</sup>113C(3) or 113D(3);
  - any information provided to them under subsection (4);
  - any information provided to them by the chief officer of a police force in England and Wales or Northern Ireland in response to a request by them for such information as is available to that officer, relates to any such matter as is mentioned in paragraph (b) of subsection (4) and concerns such matter as is mentioned in paragraph (c) of that subsection;
  - anything which has been done—
    - under subsection (1) or (2) or section 122(3); or
    - in England and Wales or Northern Ireland under the provisions of this Act which apply in England and Wales or Northern Ireland and correspond to subsection (1) or (2),and any information on the basis of which that thing was done.
- (4) A chief constable of a police force in Scotland shall comply, as soon as practicable after receiving it, with any request by the Scottish Ministers to provide them with information which—
- is available to him;
  - relates to—
    - an applicant for registration under section 120;
    - a person so registered;
    - an individual who is likely to have access to information in consequence of the countersigning of applications by a particular

*Status: Point in time view as at 02/11/2015.*

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applicant for such registration or by a particular person so registered;  
and

- (c) concerns a matter which they have notified the chief constable is a matter which in their opinion is relevant to the determination of the suitability of individuals for having access to information which may be provided by virtue of this Part.

- (5) The Scottish Ministers shall pay to a police authority [<sup>F376</sup>such fee as they consider appropriate].

[ For the purposes of this section references to a police force include any body <sup>F377</sup>(6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.]

[ In the case of such a body the reference in subsection (5) to a police authority must be <sup>F378</sup>(7) construed as a reference to such body as is prescribed.]]]

#### Extent Information

- E13** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F301** 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
- F373** S. 120A inserted (S.) (1.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 70(2)**, 89(2); S.S.I. 2006/168, art. 2
- F374** Word in s. 120A(3)(a) substituted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 9(a)**; S.S.I. 2006/166, art. 2(1)(e)
- F375** Words in s. 120A(3)(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. 9(b)**; S.S.I. 2006/166, art. 2(1)(e)
- F376** Words in s. 120A(5) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 166(1)**, 178(4)(d)(8); S.S.I. 2006/166, art. 2(1)(c)
- F377** S. 120A(6) inserted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 165(2)**, 178(4)(d)(8); S.S.I. 2006/166, **art. 2(1)(c)**; S.I. 2006/378, **art. 7(d)**; S.I. 2007/3341, **art. 2(b)**
- F378** S. 120A(7) inserted (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), **Sch. 14 para. 9(c)**; S.S.I. 2006/166, art. 2(1)(e)

#### Modifications etc. (not altering text)

- C25** S. 120A modified (temp.) (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\)](#), arts. 1(1), **8**

[<sup>F220</sup>**120A**Refusal and cancellation of registration [<sup>F221</sup>on grounds related to disclosure] **N.I.**]

- (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.

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

(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.

(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;
- [<sup>F226</sup>(b) any information relating to the person of a kind specified in subsection (3A);]
- (c) any information provided to the Secretary of State under subsection (4).

[ The information is—

<sup>F227</sup>(3A) (a) whether the person is barred from regulated activity;

<sup>F228</sup>(b) .....

<sup>F228</sup>(c) .....

(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).

<sup>F229</sup>(3B) .....

<sup>F229</sup>(3C) .....

(3D) Expressions used in [<sup>F230</sup>subsection (3A)] and in the Safeguarding Vulnerable Groups Act 2006 have the same meaning in [<sup>F231</sup>that subsection] as in that Act <sup>F232</sup>....]

(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 [<sup>F379</sup> a particular applicant for registration, or a particular registered person, acting as the registered person in relation to applications under this Part] ;

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 [<sup>F380</sup> a person acting as the registered person in relation to ] applications under this Part.

(5) In this section “relevant matter” has the same meaning as in section [<sup>F236</sup>113A].

*Status: Point in time view as at 02/11/2015.*

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[ For the purposes of this section references to a police force include any body  
F237(6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a  
chief officer must be construed accordingly.]

[ The Secretary of State may by order made by statutory instrument amend  
F238(7) 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.]]

#### Extent Information

**E4** This version of this provision extends to England and Wales only; separate versions have been created for Scotland and Northern Ireland only

#### Textual Amendments

- F220** 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)
- F221** Words in s. 120A inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 35 para. 8; S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F226** S. 120A(3)(b) substituted (10.9.2012 for E.W.N.I.) by Policing and Crime Act 2009 (c. 26), ss. 96(2), 116(1); S.I. 2012/2235, art. 2(a)
- F227** S. 120A(3A)-(3D) inserted (10.9.2012 for E.W.N.I.) by Policing and Crime Act 2009 (c. 26), ss. 96(3), 116(1); S.I. 2012/2235, art. 2(a)
- F228** S. 120A(3A)(b)(c) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(2), Sch. 10 Pt. 5 (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F229** S. 120A(3B)(3C) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(3), Sch. 10 Pt. 5 (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F230** Words in s. 120A(3D) substituted (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(4)(a) (with s. 97); S.I. 2012/2234, art. 2(aa)(i)
- F231** Words in s. 120A(3D) substituted (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(4)(b) (with s. 97); S.I. 2012/2234, art. 2(aa)(i)
- F232** Words in s. 120A(3D) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 42(4)(c), Sch. 10 Pt. 5 (with s. 97); S.I. 2012/2234, art. 2(aa)(bb)(i)
- F236** Word in s. 120A(5) substituted (6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(4)(e)(8), Sch. 14 para. 8(b); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F237** S. 120A(6) inserted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 165(2), 178(4)(d)(8); S.I. 2006/166, art. 2(1)(c); S.I. 2006/378, art. 7(d); S.I. 2007/3341, art. 2(b)
- F238** S. 120A(7)(8) inserted (10.9.2012 for E.W.N.I.) by Policing and Crime Act 2009 (c. 26), ss. 96(4), 116(1); S.I. 2012/2235, art. 2(a)

*Status: Point in time view as at 02/11/2015.*

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**F379** Words in s. 120A(4)(b)(iii) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 12\(a\)](#); S.R. 2015/358, art. 2(m)(i)

**F380** Words in s. 120A(4)(c) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 12\(b\)](#); S.R. 2015/358, art. 2(m)(i)

#### Modifications etc. (not altering text)

**C22** S. 120A modified (temp.) (N.I.) (with application in accordance with arts. 2, 5 of the amending Order) by [Safeguarding Vulnerable Groups \(Regulated Activity, Transitional Provisions and Commencement No. 4\) Order \(Northern Ireland\) 2009 \(S.R. 2009/304\)](#), [art. 9](#)

**C23** 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))

**C25** S. 120A modified (temp.) (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\)](#), arts. 1(1), [8](#)

#### Commencement Information

**I16** S. 120A in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(c\)](#)

### **[<sup>F239</sup>120A] Refusal, cancellation or suspension of registration on other grounds** **E+W**

(1) Regulations may make provision enabling [<sup>F240</sup>DBS] in prescribed cases to refuse to register a person who, in the opinion of [<sup>F240</sup>DBS], is likely to [<sup>F241</sup>act as the registered person in relation to] fewer applications under this Part in any period of twelve months than a prescribed minimum number.

(2) Subsection (3) applies where a registered person—

- (a) is, in the opinion of [<sup>F242</sup>DBS], no longer likely to wish to [<sup>F243</sup>act as the registered person in relation to] applications under this Part,
- (b) has, in any period of twelve months during which he was registered, [<sup>F244</sup>acted as the registered person in relation to] fewer applications under this Part than the minimum number specified in respect of him by regulations under subsection (1), or
- (c) has failed to comply with any condition of his registration.

(3) Subject to section 120AB, [<sup>F245</sup>DBS] may—

- (a) suspend that person's registration for such period not exceeding 6 months as [<sup>F245</sup>DBS] thinks fit, or
- (b) remove that person from the register.

[ Subsection (6) applies if an application is made under section 120 by an individual <sup>F246</sup>(4) who—

- (a) has previously been a registered person; and
- (b) has been removed from the register (otherwise than at that individual's own request).

(5) Subsection (6) also applies if an application is made under section 120 by a body corporate or unincorporate which—

- (a) has previously been a registered person; and
- (b) has been removed from the register (otherwise than at its own request).

(6) [<sup>F247</sup>DBS] may refuse the application.]

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

### Extent Information

- E5** This version of this provision extends to England and Wales only; a separate version has been created for Northern Ireland only

### Textual Amendments

- F239** Ss. 120AA, 120AB inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 9](#); S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F240** Words in s. 120AA(1) 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\(p\)](#) (with Pt. 4)
- F241** Words in s. 120AA(1) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [8\(2\)](#)
- F242** Words in s. 120AA(2) 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\(p\)](#) (with Pt. 4)
- F243** Words in s. 120AA(2)(a) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [8\(3\)\(a\)](#)
- F244** Words in s. 120AA(2)(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), [8\(3\)\(b\)](#)
- F245** Words in s. 120AA(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\(p\)](#) (with Pt. 4)
- F246** S. 120AA(4)-(6) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [ss. 81, 120](#) (with s. 97); S.I. 2012/2234, art. 2(t)
- F247** Words in s. 120AA(6) 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\(p\)](#) (with Pt. 4)

### Commencement Information

- I17** S. 120AA in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(d\)](#)

## <sup>F239</sup> **120AA Refusal, cancellation or suspension of registration on other grounds** **N.I.**

- (1) Regulations may make provision enabling the Secretary of State in prescribed cases to refuse to register a person who, in the opinion of the Secretary of State, is likely to <sup>F381</sup> act as the registered person in relation to ] fewer applications under this Part in any period of twelve months than a prescribed minimum number.
- (2) Subsection (3) applies where a registered person—
- is, in the opinion of the Secretary of State, no longer likely to wish to <sup>F382</sup> act as the registered person in relation to ] applications under this Part,
  - has, in any period of twelve months during which he was registered, <sup>F383</sup> acted as the registered person in relation to ] fewer applications under this Part than the minimum number specified in respect of him by regulations under subsection (1), or
  - has failed to comply with any condition of his registration.
- (3) Subject to section 120AB, the Secretary of State may—

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

- (a) suspend that person's registration for such period not exceeding 6 months as the Secretary of State thinks fit, or
- (b) remove that person from the register.

<sup>F384</sup> [ Subsection (6) applies if an application is made under section 120 by an individual (4) who—

- (a) has previously been a registered person; and
- (b) has been removed from the register (otherwise than at that individual's own request).

(5) Subsection (6) also applies if an application is made under section 120 by a body corporate or unincorporate which—

- (a) has previously been a registered person; and
- (b) has been removed from the register (otherwise than at its own request).

(6) The Department may refuse the application.]]

#### Extent Information

**E14** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F239** Ss. 120AA, 120AB inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 9](#); S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)

**F381** Words in s. 120AA(1) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 13\(2\)](#); S.R. 2015/358, art. 2(m)(i)

**F382** Words in s. 120AA(2)(a) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 13\(3\)\(a\)](#); S.R. 2015/358, art. 2(m)(i)

**F383** Words in s. 120AA(2)(b) substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 13\(3\)\(b\)](#); S.R. 2015/358, art. 2(m)(i)

**F384** 120AA(4)-(6) inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), [ss. 39](#), 106(2); S.R. 2015/358, art. 2(d)

#### Commencement Information

**I17** S. 120AA in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(d\)](#)

### 120AB Procedure for cancellation or suspension under section 120AA

- (1) Before cancelling or suspending a person's registration by virtue of section 120AA, [<sup>F248</sup>the Secretary of State][<sup>F248</sup>DBS] must send [<sup>F249</sup>him][<sup>F249</sup>its] written notice of his intention to do so.
- (2) Every such notice must—
  - (a) give [<sup>F250</sup>the Secretary of State's][<sup>F250</sup>DBS's] reasons for proposing to cancel or suspend the registration, and
  - (b) inform the person concerned of his right under subsection (3) to make representations.
- (3) A person who receives such a notice may, within 21 days of service, make representations in writing to [<sup>F251</sup>the Secretary of State][<sup>F251</sup>DBS] as to why the registration should not be cancelled or suspended.

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

- (4) After considering such representations, [<sup>F252</sup>the Secretary of State][<sup>F252</sup>DBS] must give the registered person written notice—
- (a) that at the end of a further period of six weeks beginning with the date of service, the person's registration will be cancelled or suspended, or
  - (b) that [<sup>F253</sup>he][<sup>F253</sup>it] does not propose to take any further action.
- (5) If no representations are received within the period mentioned in subsection (3) [<sup>F254</sup>the Secretary of State][<sup>F254</sup>DBS] may cancel or suspend the person's registration at the end of the period mentioned in that subsection.
- (6) Subsection (1) does not prevent [<sup>F255</sup>the Secretary of State][<sup>F255</sup>DBS] from imposing on the registered person a lesser sanction than that specified in the notice under that subsection.
- (7) Any notice under this section that is required to be given in writing may be given by being transmitted electronically.
- (8) This section does not apply where—
- (a) [<sup>F256</sup>the Secretary of State][<sup>F256</sup>DBS] is satisfied, in the case of a registered person other than a body, that the person has died or is incapable, by reason of physical or mental impairment, of [<sup>F257</sup>acting as the registered person in relation to] applications under this Part, or
  - (b) the registered person has requested to be removed from the register.
- (9) The Secretary of State may by regulations amend subsection (4)(a) by substituting for the period there specified, such other period as may be specified in the regulations.]

#### Textual Amendments

- F239** Ss. 120AA, 120AB inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 9](#); S.I. 2006/751, art. 2(c)(ii); S.I. 2007/3340, art. 2(b)
- F248** Words in s. 120AB(1) 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\(q\)](#) (with Pt. 4)
- F249** Word in s. 120AB(1) 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), [45\(a\)](#) (with Pt. 4)
- F250** Words in s. 120AB(2) substituted (E.W.) (1.12.2012) by virtue of [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), [37\(q\)](#) (with Pt. 4)
- F251** Words in s. 120AB(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\(q\)](#) (with Pt. 4)
- F252** Words in s. 120AB(4) 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\(q\)](#) (with Pt. 4)
- F253** Word in s. 120AB(4)(b) 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), [45\(b\)](#) (with Pt. 4)
- F254** Words in s. 120AB(5) 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\(q\)](#) (with Pt. 4)



*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

- F255** Words in s. 120AB(6) 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(q)** (with Pt. 4)
- F256** Words in s. 120AB(8) 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(q)** (with Pt. 4)
- F257** Words in s. 120AB(8)(a) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), 9; and substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 14**; S.R. 2015/358, art. 2(m)(i)

#### Commencement Information

- I18** S. 120AB in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), art. 2(e)

### <sup>F258</sup>120A Registered persons: information on progress of an application **E+W**

- (1) [<sup>F259</sup>DBS] must, in response to a request from a person who is acting as the registered person in relation to an application under section 113A or 113B, inform that person whether or not a certificate has been issued in response to the application.
- (2) Subsections (3) and (4) apply if, at the time a request is made under subsection (1), a certificate has been issued.
- (3) In the case of a certificate under section 113A, if it was a certificate stating that there is no relevant matter recorded in central records, [<sup>F260</sup>DBS] may inform the person who made the request that the certificate was such a certificate.
- (4) In the case of a certificate under section 113B, if it was a certificate—
  - (a) stating that there is no relevant matter recorded in central records and no information provided in accordance with subsection (4) of that section, and
  - (b) if section 113BA(1) or 113BB(1) applies to the certificate, containing no suitability information indicating that the person to whom the certificate is issued—
    - (i) is barred from regulated activity relating to children or to vulnerable adults, or
    - (ii) is subject to a direction under 128 of the Education and Skills Act 2008 or section 167A of the Education Act 2002,[<sup>F261</sup>DBS] may inform the person who made the request that the certificate was such a certificate.
- (5) If no certificate has been issued, [<sup>F262</sup>DBS] must inform the person who made the request of such other matters relating to the processing of the application as [<sup>F262</sup>DBS] considers appropriate.
- (6) Subject to subsections (2) to (4), nothing in this section permits [<sup>F263</sup>DBS] to inform a person who is acting as the registered person in relation to an application under section 113A or 113B of the content of any certificate issued in response to the application.
- (7) [<sup>F264</sup>DBS] may refuse a request under subsection (1) if it is made after the end of a prescribed period beginning with the day on which the certificate was issued.
- (8) In this section—

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“central records” and “relevant matter” have the same meaning as in section 113A,

“suitability information” means information required to be included in a certificate under section 113B by virtue of section 113BA or 113BB.

- (9) Expressions in subsection (4)(b) and in the Safeguarding Vulnerable Groups Act 2006 have the same meaning in that paragraph as in that Act.

#### Extent Information

- E6** This version of this provision extends to England and Wales only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F258** Ss. 120AC, 120AD inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157) for specified purposes) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 79(3)**, 120 (with s. 97); S.I. 2012/2234, art. 2(r)
- F259** Words in s. 120AC(1) substituted (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(r)** (with Pt. 4)
- F260** Words in s. 120AC(3) substituted (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(r)** (with Pt. 4)
- F261** Words in s. 120AC(4) substituted (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(r)** (with Pt. 4)
- F262** Words in s. 120AC(5) substituted (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(r)** (with Pt. 4)
- F263** Words in s. 120AC(6) substituted (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(r)** (with Pt. 4)
- F264** Words in s. 120AC(7) substituted (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(r)** (with Pt. 4)

#### <sup>F385</sup> **120AC Registered persons: information on progress of an application** **N.I.**

- (1) The Department must, in response to a request from a person who is acting as the registered person in relation to an application under section 113A or 113B, inform that person whether or not a certificate has been issued in response to the application.
- (2) Subsections (3) and (4) apply if, at the time a request is made under subsection (1), a certificate has been issued.
- (3) In the case of a certificate under section 113A, if it was a certificate stating that there is no relevant matter recorded in central records, the Department may inform the person who made the request that the certificate was such a certificate.
- (4) In the case of a certificate under section 113B, if it was a certificate—
  - (a) stating that there is no relevant matter recorded in central records and no information provided in accordance with subsection (4) of that section, and
  - (b) if section 113BA(1) or 113BB(1) applies to the certificate, containing no suitability information indicating that the person to whom the certificate is issued—
    - (i) is barred from regulated activity relating to children or to vulnerable adults, or

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

- (ii) is included in a list kept under Article 70(2)(e)(iii) or 88A(2)(b)(iii) of the Education and Libraries (Northern Ireland) Order 1986, the Department may inform the person who made the request that the certificate was such a certificate.
- (5) If no certificate has been issued, the Department must inform the person who made the request of such other matters relating to the processing of the application as the Department considers appropriate.
- (6) Subject to subsections (2) to (4), nothing in this section permits the Department to inform a person who is acting as the registered person in relation to an application under section 113A or 113B of the content of any certificate issued in response to the application.
- (7) The Department may refuse a request under subsection (1) if it is made after the end of a prescribed period beginning with the day on which the certificate was issued.
- (8) In this section—  
“central records” and “relevant matter” have the same meaning as in section 113A;  
“suitability information” means information required to be included in a certificate under section 113B by virtue of section 113BA or 113BB.
- (9) Expressions in subsection (4)(b) and in the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 have the same meaning in that paragraph as in that Order.]

#### Extent Information

**E15** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F385** Ss. 120AC, 120AD inserted (N.I.) (2.11.2015 for the insertion of s. 120AC) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), ss. 37\(2\), 106\(2\)](#); [S.R. 2015/358, art. 2\(b\)](#)

### 120AD Registered persons: copies of certificates in certain circumstances **E+W**

- (1) Subsection (2) applies if—
- [<sup>F265</sup>DBS] gives up-date information in relation to a criminal record certificate or enhanced criminal record certificate,
  - the up-date information is advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate, and
  - the person whose certificate it is in respect of which the up-date information is given applies for a new criminal record certificate or (as the case may be) enhanced criminal record certificate.
- (2) [<sup>F266</sup>DBS] must, in response to a request made within the prescribed period by the person who is acting as the registered person in relation to the application, send to that person a copy of any certificate issued in response to the application if the registered person—
- has counter-signed the application or transmitted it to [<sup>F266</sup>DBS] under section 113A(2A) or 113B(2A),

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

- (b) has informed [<sup>F266</sup>DBS] that the applicant for the new certificate has not, within such period as may be prescribed, sent a copy of it to a person of such description as may be prescribed, and
  - (c) no prescribed circumstances apply.
- (3) The power under subsection (2)(b) to prescribe a description of person may be exercised to describe the registered person or any other person.
- (4) In this section “up-date information” has the same meaning as in section 116A.]

#### Extent Information

- E6** This version of this provision extends to England and Wales only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F258** Ss. 120AC, 120AD inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157) for specified purposes) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 79\(3\), 120 \(with s. 97\); S.I. 2012/2234, art. 2\(r\)](#)
- F265** Words in s. 120AD(1) substituted (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\(s\) \(with Pt. 4\)](#)
- F266** Words in s. 120AD(2) substituted (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\(s\) \(with Pt. 4\)](#)

### [<sup>F385</sup>120AD] Registered persons: copies of certificates in certain circumstances **N.I.**

- (1) Subsection (2) applies if—
- (a) the Department gives up-date information in relation to a criminal record certificate or enhanced criminal record certificate,
  - (b) the up-date information is advice to apply for a new certificate or (as the case may be) request another person to apply for such a certificate, and
  - (c) the person whose certificate it is in respect of which the up-date information is given applies for a new criminal record certificate or (as the case may be) enhanced criminal record certificate.
- (2) The Department must, in response to a request made within the prescribed period by the person who is acting as the registered person in relation to the application, send to that person a copy of any certificate issued in response to the application if the registered person—
- (a) has counter-signed the application or transmitted it to the Department under section 113(2A) or 113B(2A),
  - (b) has informed the Department that the applicant for the new certificate has not, within such period as may be prescribed, sent a copy of it to a person of such description as may be prescribed, and
  - (c) no prescribed circumstances apply.
- (3) The power under subsection (2)(b) to prescribe a description of person may be exercised to describe the registered person or any other person.
- (4) In this section “up-date information” has the same meaning as in section 116A.]

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

#### Extent Information

**E15** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F385** Ss. 120AC, 120AD inserted (N.I.) (2.11.2015 for the insertion of s. 120AC) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), ss. 37\(2\), 106\(2\)](#); S.R. 2015/358, art. 2(b)

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

[<sup>F267</sup>In Scotland a constable engaged on central service (within the meaning of section 38 of the <sup>M2</sup>Police (Scotland) Act 1967) may perform functions under this Part (other than functions [<sup>F268</sup> in relation to the making of regulations or orders]) 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.]

#### Textual Amendments

**F267** S. 121 repealed (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), sch. 4 para. 38](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.

**F268** Words in s. 121 substituted (1.4.2006 for S., 6.4.2006 for E.W.) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(4\)\(e\)\(8\), Sch. 14 para. 10](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c)

#### Commencement Information

**I19** 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

**M2** 1967 c. 77.

## 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>F269</sup>, or the discharge of any function by,] registered persons under this Part.

[<sup>F270</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.

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

- (3) <sup>F271</sup>Subsection (3A) applies if <sup>F272</sup>the Secretary of State<sup>F272</sup>DBS] thinks that the <sup>F273</sup>registered person who countersigned<sup>F273</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>F274</sup>countersigned<sup>F274</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>F275</sup>(3A) <sup>F276</sup>The Secretary of State<sup>F276</sup>DBS] may—
- (a) <sup>F277</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>F278</sup>the Secretary of State<sup>F278</sup>DBS] proposes to suspend or cancel a person's registration under subsection (3A) above as it applies if <sup>F279</sup>he<sup>F279</sup>it] proposes to suspend or cancel a person's registration by virtue of section 120AA.]

#### Extent Information

- E7** 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

- F269** 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\(1\)\(d\)](#)
- F270** 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\(e\)\(iii\)](#)
- F271** 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\(1\)\(d\)](#)
- F272** 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)
- F273** 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\(a\)](#)
- F274** 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\(b\)](#)
- F275** 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\(1\)\(d\)](#)
- F276** 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)
- F277** 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\(m\)\(v\)](#)
- F278** 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)
- F279** 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

- I20** 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](#)

*Status: Point in time view as at 02/11/2015.*

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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  
**121** S. 122 in force at 3.12.2007 for N.I. by S.I. 2007/3342, art. 2(f)

## [<sup>F301</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>F386</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>F387</sup>113A or 113B][<sup>F388</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 countersigned the application [<sup>F389</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>F390</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>F391</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>F392</sup>(i) section [<sup>F393</sup>113A or 113B][<sup>F394</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

**E16** 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

- F301** 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
- F386** 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.
- F387** 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)**
- F388** 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)
- F389** 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)

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

- F390** 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)
- F391** 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.
- F392** 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)
- F393** 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
- F394** 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

- I20** 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
- I21** S. 122 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), art. 2(f)

### [<sup>F280</sup>122A] Delegation of functions of Secretary of State

- [<sup>F281</sup>(1) The Secretary of State may, to such extent and subject to such conditions as he thinks fit, delegate any relevant function of his under this Part to such person as he may determine.
- (2) A function is relevant for the purposes of subsection (1) if it does not consist of a power—
- (a) to make regulations, or
  - (b) to publish or revise a code of practice or to lay any such code before Parliament.
- (3) A delegation under subsection (1) may be varied or revoked at any time.]]

#### Textual Amendments

- F280** S. 122A inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 35 para. 10**; S.I. 2004/81, art. 4(1)(2)(o)(i); S.I. 2007/3340, art. 2(b)
- F281** S. 122A omitted (E.W.) (1.12.2012) by virtue of [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **51** (with Pt. 4)

#### Commencement Information

- I22** S. 122A in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), art. 2(g)

### [<sup>F282</sup>122B] Delegation of functions of Scottish Ministers

- (1) The Scottish Ministers may, to such extent and subject to such conditions as they think appropriate, delegate any of their functions under this Part (other than excepted functions) to such person as they may determine.
- (2) An excepted function is a function—
- (a) relating to the making of regulations or orders;



*Status: Point in time view as at 02/11/2015.*

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- (b) relating to the publishing or revising of a code of practice;
  - (c) relating to the laying of a code of practice before the Scottish Parliament;
  - (d) relating to the determination of an appropriate fee under section 113B(5A) or 119(3); or
  - (e) under section 125A.
- (3) A delegation under subsection (1) may be varied or revoked at any time.
- (4) No proceedings are competent against a person performing functions delegated under this section by reason of an inaccuracy in the information made available or provided to the person in accordance with section 119.]

#### Textual Amendments

**F282** S. 122B inserted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 40](#) (with ss. 90, 99); S.S.I. 2007/564, art. 2, sch.

### 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

- I23** 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](#)
- I24** S. 123 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(h\)](#)

### 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 <sup>[F283]</sup>113A or 113B] 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 <sup>[F284]</sup>countersigned] <sup>[F284]</sup>acted as the registered person in relation to] the application, or

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- (c) to an individual at whose request the registered body [F284 countersigned][F284 acted as the registered person in relation to] the relevant application.
- (2) Where information is provided under section [F285 113A or 113B] following an application [F286 countersigned][F286 in relation to which the person who acted as the registered person did so] 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 [F287 113A or 113B] following an application [F288 countersigned by or at the request of an individual][F288 in relation to which an individual acted as the registered person, or in relation to which the person who acted as the registered person did so 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 [F289 113A or 113B] 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 [F290 (5) or] (6)(a), (d), (e) or (f),
- the person to whom the information is disclosed commits an offence (subject to [F291 subsections (5) and (6)][F291 subsection (6)]) if he discloses it to any other person.
- (5) [F292 Subsections (1) to (4) do not apply to a disclosure of information provided in accordance with section [F293 113B(5)] 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 [F294 113A or 113B] 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 [F295 113A]) 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.

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*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

### Textual Amendments

- F283** Words in s. 124(1) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F284** Words in s. 124(1)(b)(c) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [11\(2\)](#)
- F285** Words in s. 124(2) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F286** Words in s. 124(2) substituted (E.W.) (2.3.2009) by [The Police Act 1997 \(Criminal Records\) \(Electronic Communications\) Order 2009 \(S.I. 2009/203\)](#), arts. 1(1), [11\(3\)](#)
- F287** Words in s. 124(3) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F288** Words in s. 124(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), [11\(4\)](#)
- F289** Words in s. 124(4) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F290** Words in s. 124(4)(b) repealed (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 115\(2\)\(a\)](#), [Sch. 10 Pt. 6](#) (with s. 97); S.I. 2012/2234, art. 2(aa)(cc)(x); and repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 16\(5\)\(a\)](#), [Sch. 9 Pt. 3](#); S.R. 2015/358, art. 2(m)(vi)
- F291** Words in s. 124(4)(b) substituted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 115\(2\)\(b\)](#) (with s. 97); S.I. 2012/2234, [art. 2\(aa\)\(x\)](#); and substituted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 16\(5\)\(b\)](#); S.R. 2015/358, [art. 2\(m\)\(vi\)](#)
- F292** S. 124(5) repealed (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 115\(3\)](#), [Sch. 10 Pt. 6](#) (with s. 97); S.I. 2012/2234, art. 2(aa)(cc)(x)
- F293** Word in s. 124(5) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(b\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F294** Words in s. 124(6) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(a\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)
- F295** Word in s. 124(6)(e) substituted (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 12\(c\)](#); S.S.I. 2006/166, art. 2(1)(e); S.I. 2006/378, art. 7(c); S.I. 2007/3341, art. 2(d)

### Commencement Information

- I25** 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](#)
- I26** S. 124 in force at 3.12.2007 for N.I. by S.I. 2007/3342, [art. 2\(i\)](#)

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**[<sup>F296</sup>124A Further offences: disclosure of information obtained in connection with delegated function **E+W+N.I.****

- (1) Any person who is engaged in the discharge of functions conferred by this Part on [<sup>F297</sup>the Secretary of State][<sup>F297</sup>DBS] commits an offence if he discloses information which has been obtained by him in connection with those functions and which relates to a particular person unless he discloses the information, in the course of his duties,—
- (a) to another person engaged in the discharge of those functions,
  - (b) to the chief officer of a police force in connection with a request under this Part to provide information to [<sup>F297</sup>the Secretary of State][<sup>F297</sup>DBS], or
  - (c) to an applicant <sup>F298</sup>... who is entitled under this Part to the information disclosed to him.
- (2) Where information is disclosed to a person and the disclosure—
- (a) is an offence under subsection (1), or
  - (b) would be an offence under subsection (1) but for subsection (3)(a), (d) or (e),
- the person to whom the information is disclosed commits an offence if he discloses it to any other person.
- (3) Subsection (1) does not apply to a disclosure of information which is made—
- (a) with the written consent of the person to whom the information relates,
  - (b) to a government department,
  - (c) to a person appointed to an office by virtue of any enactment,
  - (d) in accordance with an obligation to provide information under or by virtue of any enactment, or
  - (e) for some other purpose specified in regulations made by the Secretary of State.
- (4) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 3 on the standard scale, or to both.
- (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4) to 51 weeks is to be read as a reference to 6 months.

[ For the purposes of this section the reference to a police force includes any body <sup>F299</sup>(6) mentioned in subsections (10)(a) to (i) and (11) of section 113B and the reference to a chief officer must be construed accordingly.]

[ For the purposes of this section the reference to an applicant includes a person who <sup>F300</sup>(6A) makes a request under section 116A(1), 120AC(1) or 120AD(2).]

#### Extent Information

**E8** 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

**F296** S. 124A inserted (29.1.2004 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 11](#); S.I. 2004/81, art. 4(1)(2)(o)(i); S.I. 2007/3340, art. 2(b)

**F297** Words in s. 124A(1) 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(u)** (with Pt. 4)

*Status: Point in time view as at 02/11/2015.*

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- F298** Words in s. 124A(1)(c) repealed (E.W.) (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 116\(2\), Sch. 10 Pt. 6](#) (with s. 97); S.I. 2013/1180, art. 2(f); and repealed (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 5 para. 17\(2\), Sch. 9 Pt. 3; S.R. 2015/358, art. 2\(m\)\(i\)](#)
- F299** S. 124A(6) inserted (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 165\(3\), 178\(4\)\(d\)\(8\)](#); S.I. 2006/378, art. 7(d); S.I. 2007/3341, art. 2(b)
- F300** S. 124A(6A) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 116\(3\)](#) (with s. 97); S.I. 2012/2234, art. 2(aa)(xi); and inserted (N.I.) (2.11.2015) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 5 para. 17\(3\); S.R. 2015/358, art. 2\(m\)\(i\)](#)

#### Commencement Information

- I27** S. 124A in force at 3.12.2007 for N.I. by [S.I. 2007/3342, art. 2\(j\)](#)

### [<sup>F301</sup>124A] **Review of certain decisions as to registration** S

- (1) Where the Scottish Ministers decide to refuse to include a person in the register maintained for the purposes of this Part or, other than by virtue of section 120(3)(b), to remove him from that register they shall notify him in writing of that decision and of their reason for so deciding and shall send a copy of that notification to the Secretary of State.
- (2) If the person considers that the information upon which the decision was based may have been inaccurate he may, by written notice to the Scottish Ministers setting out his reason for so considering, require them to review the decision; and they shall notify him in writing of the results of their review and of any consequential change in the decision and shall send a copy of—
  - (a) the notice; and
  - (b) the notification,to the Secretary of State.
- (3) Any notification given by the Scottish Ministers under subsection (1) or (2) shall include information as to the provisions of any regulations made under section 120(3)(ac).
- (4) The Scottish Ministers may, for the purposes of this section, make regulations as to procedure; and such regulations may, in particular, make provision in relation to—
  - (a) information to be included in any notification under subsection (1) or (2); and
  - (b) the period within which—
    - (i) a requirement may be made under subsection (2); or
    - (ii) a decision under subsection (1) is to be implemented.]

#### Extent Information

- E17** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F301** 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](#)

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## [<sup>F301</sup>124B] Scottish annotated list of certificated persons

- (1) The Scottish Ministers shall maintain an annotated list for the purposes of this Part and shall include in that list all persons to whom a criminal record certificate, or as the case may be an enhanced criminal record certificate, has been issued under any of sections 113 to 116 of this Act.
- (2) The Scottish Ministers may make regulations about the maintenance of the list; and such regulations may, in particular, provide for—
  - (a) the information to be included in the list;
  - (b) the details to be provided, for the purposes of this section, by persons applying to be issued a criminal record certificate or enhanced criminal record certificate or countersigning any such application;
  - (c) the procedure to be followed as respects the exercise of such discretion as is afforded them by subsection (3).
- (3) The Scottish Ministers may, as respects a person included in the list, if they are satisfied that it is appropriate to do so, notify the registered person who countersigned his application for the certificate in question (or on whose behalf that application was countersigned) or whomever else made the requisite statement which accompanied that application, about any relevant matter relating to the listed person (“relevant matter” having the same meaning as in section 113(5)) of which they become aware after issuing that certificate.
- (4) The Scottish Ministers are not to be satisfied as is mentioned in subsection (3) unless they are satisfied that the exempted question for the purpose of which the certificate was required remains relevant for the person to whom notification would, under that subsection, be given.
- (5) Regulations under paragraph (c) of subsection (2)—
  - (a) shall provide for there to be an opportunity for a listed person to make representations as respects whether the Scottish Ministers should be satisfied as is mentioned in subsection (3) and require them to have regard to those representations before giving notification under that subsection; and
  - (b) may require the person who would receive that notification (not being a person who is a Minister of the Crown) to provide them with such information as is in his possession and to which it would be appropriate for them to have regard as respects the exercise of the discretion mentioned in that paragraph.]

### Textual Amendments

**F301** 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

## 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.

[<sup>F302</sup>(1A) In prescribing the amount of a fee that—

- (a) is payable in relation to applications under a particular provision of this Part, but
- (b) is not payable in relation to applications made by volunteers,

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the Secretary of State may take into account not only the costs associated with applications in relation to which the fee is payable but also the costs associated with applications under that provision made by volunteers.]

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

<sup>F303</sup>(3) . . . . .

(4) A statutory instrument <sup>F304</sup>... 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.

[<sup>F305</sup>(6) If the power mentioned in subsection (1) is exercised by the Scottish Ministers, the reference in [<sup>F306</sup>subsection (3)][<sup>F306</sup>subsection (4)] to each House of Parliament must be construed as a reference to the Scottish Parliament.]

#### Textual Amendments

**F302** S. 125(1A) inserted (E.W.) (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 151, 185\(1\)\(2\)\(b\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#))

**F303** S. 125(3) repealed (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.S.I. 2006/166, [art. 2\(1\)\(d\)](#); and repealed (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 12\(a\)](#), [Sch. 37 Pt. 11](#); S.I. 2006/751, [art. 2\(c\)\(d\)\(i\)\(ii\)](#); S.I. 2007/3340, [art. 2\(b\)](#)

**F304** Words in s. 125(4) repealed (1.4.2006 for S.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); S.S.I. 2006/166, [art. 2\(1\)\(d\)](#); and repealed (6.4.2006 for E.W., 3.12.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 35 para. 12\(b\)](#), [Sch. 37 Pt. 11](#); S.I. 2006/751, [art. 2\(c\)\(d\)\(i\)\(ii\)](#); S.I. 2007/3340, [art. 2\(b\)](#)

**F305** S. 125(6) added (1.4.2006 for S., 6.4.2006 for E.W., 3.12.2007 for N.I.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(4)(e)(8), [Sch. 14 para. 14](#); S.S.I. 2006/166, [art. 2\(1\)\(e\)](#); S.I. 2006/378, [art. 7\(c\)](#); S.I. 2007/3341, [art. 2\(d\)](#)

**F306** Words in s. 125(6) substituted (E.W.) (1.1.2006) by [The Serious Organised Crime and Police Act 2005 \(Amendment\) Order 2005 \(S.I. 2005/3496\)](#), [arts. 1\(1\), 6\(2\)](#)

#### Commencement Information

**I28** 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\(1\)](#)

**I29** S. 125 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), [art. 2\(k\)](#)

#### [<sup>F307</sup>125A] Form of applications

(1) It is for the Scottish Ministers to determine the form and manner in which applications must be made for the purposes of sections 112(1)(a), 113A(1)(a), 113B(1)(a), 114(1)(a), 116(1)(a), 117(1), and 120(2).

(2) The Scottish Ministers may, in particular, determine that such applications may be made in electronic form (and may be signed or countersigned electronically).

(3) The Scottish Ministers need not consider any such application unless it is made in the form and manner determined by them (or in a form and manner as close to that as circumstances permit).]

*Status: Point in time view as at 02/11/2015.*

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### Textual Amendments

**F307** S. 125A inserted (S.) (11.1.2008) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), **ss. 79(3), 101(2)** (with **ss. 90, 99**); S.S.I. 2007/564, art. 2, sch.

## <sup>F308</sup>125B Form of applications

- (1) <sup>F309</sup>The Secretary of State<sup>F309</sup> [DBS] 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.

[ In this section “application” includes a request under section 116A(1), 120AC(1) or <sup>F310</sup>(3) 120AD(2).]

### Textual Amendments

**F308** S. 125B inserted (E.W.N.I.) (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 97(1), 116(1)**; S.I. 2010/125, art. 2(n)

**F309** Words in s. 125B(1) 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(v)** (with Pt. 4)

**F310** S. 125B(3) inserted (E.W.) (10.9.2012 immediately after the coming into force of the [Safeguarding Vulnerable Groups \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2157\)](#)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 117** (with s. 97); S.I. 2012/2234, art. 2(aa)(xii); and inserted (N.I.) (2.11.2015 for specified purposes) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 5 para. 18**; S.R. 2015/358, art. 2(m)(vii)

## 126 Interpretation of Part V.

- (1) In this Part—

“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 <sup>F311</sup>but does not include any documents issued in response to—

- (a) a request under section 116A(1),
- (b) an application as mentioned in section 116A(4)(a) or (5)(a), or
- (c) a request under section 120AC or 120AD];

“chief officer” means—

- (i) a chief officer of police of a police force in England and Wales,
- (ii) <sup>F312</sup>the chief constable of the Police Service of Scotland, and]
- (iii) the Chief Constable of the <sup>F313</sup>Police Service of Northern Ireland];

<sup>F314</sup>“DBS” means the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012;]

<sup>F315</sup>“the Department” means the Department of Justice in Northern Ireland;]



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“government department” includes a Northern Ireland department;  
“Minister of the Crown” includes a Northern Ireland department;  
[<sup>F316</sup>“office-holder in the Scottish Administration” has the same meaning as in the Scotland Act 1998 (c. 46);]  
“police authority” means—  
(i) [<sup>F317</sup>the Scottish Police Authority, and]  
(ii) the [<sup>F318</sup>Northern Ireland Policing Board];  
“police force” means—  
(i) a police force in Great Britain, and  
(ii) the [<sup>F313</sup>Police Service of Northern Ireland] and the [<sup>F313</sup>Police Service of Northern Ireland Reserve];  
“prescribed” shall be construed in accordance with section 125(1).  
[<sup>F319</sup>“protected conviction” is to be construed in accordance with section 126ZA.]

(2) In the application of this Part to Northern Ireland, a reference to the <sup>M3</sup>Rehabilitation of Offenders Act 1974, or to a provision of that Act, shall be construed as a reference to the <sup>M4</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978 or, as the case may be, to the corresponding provision of that order.

[<sup>F320</sup>(3) In the application of this Part to Northern Ireland a reference to the Safeguarding Vulnerable Groups Act 2006, or to a provision of that Act, shall be construed as a reference to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 or, as the case may be, to the corresponding provision of that Order.]

[<sup>F321</sup>(3) In the application of this Part to Scotland references to the Secretary of State must be construed as references to the Scottish Ministers.

(4) Subsection (3) does not apply to section 118(2A)(d) or 124A(1) and (2).]

### Textual Amendments

- F311** Words in s. 126(1) inserted (E.W.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157) for specified purposes, 17.6.2013 in so far as not already in force) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 118 (with s. 97); [S.I. 2012/2234](#), art. 2(aa)(xiii); [S.I. 2013/1180](#), art. 2(e)(iv); and inserted (N.I.) (2.11.2015 for specified purposes) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 19\(2\)](#); [S.R. 2015/358](#), art. 2(m)(viii)
- F312** Words in s. 126 substituted (E.W.N.I.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 1 para. 6\(7\)\(a\)](#); and (S.) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 14\(8\)\(a\)](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F313** 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.](#)
- F314** Words in s. 126(1) inserted (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), [47](#) (with Pt. 4)
- F315** Words in s. 126(1) inserted (N.I.) (2.11.2015 for specified purposes) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 5 para. 19\(3\)](#); [S.R. 2015/358](#), art. 2(m)(viii)
- F316** Words in s. 126(1) inserted (S.) (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 41](#) (with ss. 90, 99); [S.S.I. 2011/157](#), art. 2(a) (with art. 3)
- F317** Words in s. 126(1) substituted (E.W.N.I.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 1 para.](#)

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**6(7)(b)**; and (S.) (1.4.2013) by **Police and Fire Reform (Scotland) Act 2012** (asp 8), s. 129(2), **sch. 7 para. 14(8)(b)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

**F318** 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.**

**F319** Words in s. 126(1) inserted (S.) (10.9.2015) by **The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015** (S.S.I. 2015/330), arts. 1(2), **3(6)** (with arts. 5-10)

**F320** S. 126(3) added (N.I.) (12.10.2009) by **The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007** (S.I. 2007/1351), art. 1(3), **Sch. 7 para. 3** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/304, art. 3(a)

**F321** S. 126(3)(4) inserted (1.7.2005 for S., 1.7.2005 for E.W., 3.12.2007 for N.I.) by **Serious Organised Crime and Police Act 2005** (c. 15), **ss. 166(2), 178(4)(d)(8)**; S.S.I. 2005/358, art. 2(d); S.I. 2005/1521, art. 3(3)(c); S.I. 2007/3341, art. 2(c)

#### Commencement Information

**I30** 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**

**I31** S. 126 in force at 3.12.2007 for N.I. by S.I. 2007/3342, **art. 2(1)**

#### Marginal Citations

**M3** 1974 c. 53.

**M4** S.I. 1978/1908 (N.I. 27).

### [<sup>F322</sup>126ZA] Protected convictions

- (1) For the purposes of this Part a conviction is a protected conviction if—
- (a) it is a spent conviction, and
  - (b) either—
    - (i) it is not a conviction for an offence listed in schedule 8A or 8B, or
    - (ii) it is a conviction for an offence listed in schedule 8B and at least one of the conditions specified in subsection (2) is satisfied.
- (2) The conditions are—
- (a) the disposal in respect of the conviction was an admonition or an absolute discharge,
  - (b) the person was aged under 18 on the date of conviction and at least 7 years and 6 months have passed since the date of the conviction,
  - (c) the person was aged 18 or over on the date of conviction and at least 15 years have passed since the date of the conviction.
- (3) In subsection (2)(a), the reference to an absolute discharge includes a reference to the discharge of the referral of a child's case to a children's hearing under—
- (a) section 69(1)(b) and (12) of the Children (Scotland) Act 1995, or
  - (b) section 91(3)(b), 93(2)(b), 108(3)(b), or 119(3)(b) of the Children's Hearings (Scotland) Act 2011.

#### Textual Amendments

**F322** Ss. 126ZA, 126ZB inserted (S.) (10.9.2015) by **The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015** (S.S.I. 2015/330), arts. 1(2), **3(7)** (with arts. 5-10)

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## 126ZB Offences in schedules 8A and 8B

- (1) The Scottish Ministers may by regulations modify schedule 8A or 8B.
- (2) Regulations under subsection (1) are subject to the affirmative procedure.]

### Textual Amendments

**F322** Ss. 126ZA, 126ZB inserted (S.) (10.9.2015) by [The Police Act 1997 and the Protection of Vulnerable Groups \(Scotland\) Act 2007 Remedial Order 2015 \(S.S.I. 2015/330\)](#), arts. 1(2), 3(7) (with arts. 5-10)

## [<sup>F323</sup>126A] Part 5: Modifications for Northern Ireland

- (1) This Part applies to Northern Ireland subject to the following modifications.
- (2) Any reference to the Secretary of State, except in—
  - (a) section 118(2A)(d),
  - (b) [<sup>F324</sup>section 119(1), (3), (5) and (8),]
  - (c) section 119B(2), (4) and (4A), and
  - (d) section 122A as it applies to a function of the Secretary of State under [<sup>F325</sup>section 119 or] 119B(2), (4) or (4A),shall be construed as a reference to the Department of Justice in Northern Ireland.
- (3) [<sup>F326</sup>Section 119 has effect subject to the following modifications—
  - (a) in subsection (1), in relation to a relevant function within subsection (8)(a) or (b), any reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland;
  - (b) in subsection (3), except in relation to a request for the purposes of the provision of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that corresponds to section 24 of the Safeguarding Vulnerable Groups Act 2006, any reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland;
  - (c) subsections (5) and (8) have effect as if any reference to the Secretary of State included a reference to the Department of Justice in Northern Ireland.]
- (4) The following provisions shall not have effect—
  - (a) section 113A(8);
  - (b) in section 113BC—
    - (i) in subsection (1) the words “made by statutory instrument”;
    - (ii) subsection (2);
  - (c) in section 120A—
    - (i) in subsection (7) the words “made by statutory instrument”;
    - (ii) subsection (8);
  - (d) section 125(2), (4) and (6).
- (5) In section 122 any reference to Parliament shall be construed as a reference to the Northern Ireland Assembly.
- (6) In relation to the delegation of any function of the Department of Justice, any reference in section 122A to Parliament shall be construed as a reference to the Northern Ireland Assembly.

*Status: Point in time view as at 02/11/2015.*

*Changes to legislation: Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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)*

- (7) Any power of the Department of Justice under this Part to make orders or regulations shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (8) No order shall be made by the Department of Justice under section 113A(7) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (9) Any other order or regulations made under this Part by the Department of Justice shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).
- (10) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of this Part in relation to the laying of anything before the Northern Ireland Assembly as it applies in relation to the laying of a statutory document under an enactment.]

#### Textual Amendments

- F323** S. 126A inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 38** (with arts. 28-31)
- F324** S. 126A(2)(b) omitted (E.W.) (1.12.2012) by virtue of [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **53(a)** (with Pt. 4)
- F325** Words in s. 126A(2)(d) omitted (E.W.) (1.12.2012) by virtue of [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **53(b)** (with Pt. 4)
- F326** S. 126A(3) omitted (E.W.) (1.12.2012) by virtue of [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **53(a)** (with Pt. 4)

#### 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

- I32** 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**
- I33** S. 127 in force at 3.12.2007 for N.I. by [S.I. 2007/3342](#), **art. 2(m)**

**Status:**

Point in time view as at 02/11/2015.

**Changes to legislation:**

Police Act 1997, Part V is up to date with all changes known to be in force on or before 30 March 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.