

# CARE STANDARDS ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part VII: Protection of Children and Vulnerable Adults

##### General

##### *Section 103 Temporary provision for access to lists*

260. This section replaces sections 13(3) and 13(4) of PoCA to take account of amendments made by this Act. It ensures that all relevant lists can be accessed by all relevant organisations in advance of the establishment of the Criminal Records Bureau. *Subsection (1)* identifies the lists that the amendment is concerned with, and *subsection (2)* defines who may access the lists under these interim arrangements. This subsection also provides a power to make regulations broadening the range of organisations that will have access to the lists during this interim period, and similarly widens the range of positions in respect of which they will be able to make checks. Thus, for example, it will allow regulations to be made which will allow adoption societies access to the lists when considering the suitability of prospective adoptive parents before *section 104* is commenced.

##### *Section 104 Suitability to adopt a child: searches of lists*

261. This section amends sections 113 and 115 of the Police Act 1997, to provide for certain persons to be subject to criminal records checks, and enhanced criminal records<sup>1</sup> checks respectively. In the case of prospective adoptive parents, the enhanced criminal records certificates are to be made available to the local authority or voluntary adoption agency that is carrying out the assessment of a person's suitability to adopt.
262. This section also amends sections 113 and 115 of the Police Act 1997 such that persons who are applying for registration under Part II of this Act (persons carrying on or managing establishments or agencies) and persons applying to be admitted to the registers of social care workers held by the Councils under section 56 of this Act may also be subject to both types of check. For persons applying to be registered under Part VI (childminders and day centre providers), of this Act provisions in *Schedule 4, paragraph 25* make the appropriate amendments to the Police Act 1997.

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<sup>1</sup> The Police Act 1997 provides for the issue of three types of certificates:

- Criminal Conviction Certificate under section 112. These will just give information about criminal convictions
- Criminal Record Certificate under section 113. These will give information about criminal convictions and cautions, plus information about PoCA/PoVA listing
- Enhanced Criminal Records Certificate under section 115. These will give information about criminal convictions, PoCA/PoVA listing, and in addition, will give such information relating to a persons arrests, or charges and investigations relating to them, which have not led to a conviction or caution and which the relevant chief constable thinks are relevant.