

**2006 No. 2181**

**POLICE, ENGLAND AND WALES**

**The Police Act 1997 (Criminal Records ) (Amendment No.2)  
Regulations 2006**

<i>Made</i>	- - - -	<i>8th August 2006</i>
<i>Laid before Parliament</i>		<i>10th August 2006</i>
<i>Coming into force</i>		
<i>With the exception of regulation</i>		
<i>2(g)—</i>		<i>1st September 2006</i>
<i>Regulation 2(g)</i>		<i>25th September 2006</i>

The Secretary of State makes the following Order in exercise of the powers conferred by sections 113B (2) (b) and (9), 113D (4) (d), 124 (6) (e) and (f) and 125 of the Police Act 1997(a):

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Police Act 1997 (Criminal Records) (Amendment No. 2 ) Regulations 2006.

(2) Subject to paragraph (3), these Regulations shall come into force on 1st September 2006.

(3) Regulation 2(g) shall come into force on 25th September 2006.

(4) These Regulations extend to England and Wales.

**Amendment of 2002 Regulations**

2. The Police Act 1997 (Criminal Records) Regulations 2002(b) are amended as follows—

(a) in regulation 5A (enhanced criminal record certificates: prescribed purposes), after the words “regulation 5B” in paragraph (b), insert “(1) to (5)”;

(b) after regulation 5A (b) insert—

“(ba) considering the applicant’s suitability for a position which is concerned with—

(i) the provision of care services for vulnerable adults within the meaning given by regulation 5B (6) below; or

(ii) the representation of, or advocacy services for, such adults, by a service which has been approved by the Secretary of State or created by or under any enactment,

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(a) 1997 c.50. Sections 113B and 113D were inserted in Part V of that Act by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15).

(b) S.I. 2002/233 ; relevant amendments have been made by S.I. 2004/1759 and S.I. 2006/748.

and which is of such a kind as to enable a person , in the course of his normal duties in that position , to have access to such adults when they are receiving such services;”;

(c) for regulation 5A (o) substitute—

“(o) considering the suitability of an individual for—

(i) a position as a member of the governing body of an educational institution within the meaning given by section 42 of the Criminal Justice and Court Services Act 2000(a),or

(ii) a position in a school within the meaning given by section 4 of the Education Act 1996(b).”;

(d) in regulation 5B (5) (meaning of “vulnerable adult”) for the words “this regulation” substitute “paragraphs (1) to (4) above”;

(e) at the end of regulation 5B insert—

“(6) The references to vulnerable adults in regulation 5(ba) above are references to persons aged 18 or over who have one or more conditions of the following types, namely—

(a) a substantial learning or physical disability;

(b) a physical or mental illness or mental disorder, chronic or otherwise, including an addiction to alcohol or drugs; or

(c) a significant reduction in physical or mental capacity.”;

(f) after regulation 8 insert—

“Criminal record certificates :suitability relating to adults : prescribed position

**8A.** The following position is prescribed for the purposes of section 113D (4) of the Act (criminal record certificates: suitability relating to adults), namely the position referred to in regulation 5(ba) above (position concerned with the provision of care services to vulnerable adults or with representing, or providing advocacy services to, such adults).”;

(g) in regulation 10 (enhanced criminal record certificates: relevant police forces),

(i) after paragraph (a) insert—

“(aa) the British Transport Police;” and

(ii) in paragraph (c) for the words “or (b)” substitute “, (aa) or (b)”;

(h) after regulation 11 insert—

“Exception to unlawful disclosure provisions

**12.—**(1) The following purpose is specified for the purposes of subsection (6) (e) and (f) of section 124 of the Act (exceptions to prohibition of disclosure beyond a registered body), namely disclosure by an employment agency or an employment business, whether or not in response to an exempted question, for the purpose of consideration,

(a) by an educational institution, within the meaning given by section 42 of the Criminal Justice and Court Services Act 2000, or

(b) by an institution within the further education sector , within the meaning given by section 91(3) of the Further and Higher Education Act 1992 (c),

of a person’s suitability for a position at that institution.

(2) In paragraph (1) above the references to an employment agency and an employment business are references to such an agency or business within the meanings given by section 13 of the Employment Agencies Act 1973(d).”.

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(a) 2000 c. 43.  
(b) 1996 c. 56.  
(c) 1992 c.13.  
(d) 1973 c.35.

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st September 2006 (with the exception of regulation 2(g) which comes into force on 25th September 2006), amend the Police Act 1997 (Criminal Records) Regulations 2002 as follows.

Paragraphs (a) to (e) of regulation 2 add to the list of purposes for which an enhanced criminal record certificate can be issued the purposes of considering a person's suitability for a position concerned with providing care services or representative or advocacy services to vulnerable adults or a position as a member of the governing body of an educational institution.

Paragraph (f) prescribes the first of those positions as a position in respect of which a request can be made for information as to whether a person is on a list of persons classified as unsuitable to work with vulnerable adults.

Paragraph (g) adds the British Transport Police to the list of police forces which may be considered relevant for the purposes of obtaining information to be included in an enhanced criminal record certificate.

Paragraph (h) provides an exception to the prohibition of disclosure of information beyond a registered body which has obtained such a certificate, namely disclosure by an employment agency or business to an educational institution, or an institution in the further education sector, for the purpose of considering a person's suitability for a position at that institution.

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STATUTORY INSTRUMENTS

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