

**EXPLANATORY MEMORANDUM TO
THE POLICE ACT 1997 (CRIMINAL RECORDS) (AMENDMENT NO. 4)
REGULATIONS 2012**

2012 No. 3016

1. This explanatory memorandum has been prepared by the Home Office (“the Department”) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 These Regulations amend the purposes for which an enhanced criminal record certificate may be required so as to add the consideration of an individual’s suitability to possess, acquire or transfer prohibited weapons under section 5 of the Firearms Act 1968.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 Section 113B(2)(b) of the Police Act 1997 requires that an application for an enhanced criminal record certificate must be accompanied by a statement that the certificate is required for a prescribed purpose.
 - 4.2 The prescribed purposes are set out in Regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002, which these Regulations amend.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England and Wales.
6. **European Convention on Human Rights**
 - 6.1 As these Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.
7. **Policy Background**
 - **What is being done and why**
 - 7.1 The purpose of these Regulations is to enable enhanced criminal records checks to be undertaken on those seeking authority to possess, acquire or transfer prohibited weapons (such as most semi-automatic weapons or handguns) under section 5 of the Firearms Act 1968 by the Disclosure and Barring Service, which effectively replaced the Criminal Records Bureau from 1 December 2012. The

immediate policy driver is to speed up checks on those seeking to act as armed security guards protecting UK registered ships from Somali pirates. Such checks are currently conducted by the firearms enquiry department within the applicant's local police force and there have been some substantial delays. The Regulations do not cover all the activities included in section 5. For example, they do not enable enhanced criminal records checks on those seeking authority to manufacture or sell prohibited weapons. Enhanced criminal records checks are only available where they are required for the purposes of a question exempted from the relevant provisions of the Rehabilitation of Offenders Act 1974. There is an exemption under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 for the purpose of safeguarding national security and this would apply to questions directed to those seeking to act as armed guards on UK ships.

- **Consolidation**

7.2 As these Regulations make a relatively limited amendment to the existing regulations, consolidation was not considered appropriate on this occasion.

8. Consultation outcome

8.1 No consultation required as this amendment simply facilitates a limited extension of eligibility for enhanced criminal record certificates.

9. Guidance

9.1 Guidance is not required, but the Home Office will liaise with interested parties to ensure they are aware of the regulations.

10. Impact

10.1 There is some positive impact on business as the security guards who will benefit from speedier checks are employed by private security companies. There is no impact on charities or voluntary bodies.

11. Regulating small business

11.1 Some of the private security companies referred to at 10.1 will be small businesses.

12. Monitoring and review

12.1 The Home Office will monitor the take-up and effectiveness of this new facility.

13. Contact

13.1 John Woodcock at the Safeguarding and Public Protection Unit in the Home Office (Tel: 0207 035 4422 or email: John.Woodcock@homeoffice.gsi.gov.uk) can answer any queries regarding these Regulations.