

**EXPLANATORY MEMORANDUM TO  
THE POLICE ACT 1997 (CRIMINAL RECORDS) (AMENDMENT NO. 2)  
REGULATIONS 2014**

**2014 No. 955**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The Police Act 1997 (Criminal Records) Regulations 2002 (“the 2002 Regulations”) set out the purposes for which an enhanced criminal record certificate may be obtained. The Regulations, in particular, group “work with children” and “work with adults” as purposes for which such certificates may be obtained. The purpose of this instrument is firstly, to make clearer that the purposes for which an enhanced criminal record certificate can be obtained under section 113B of the Police Act 1997, mentioned in regulations 5B and 5C of the 2002 Regulations, relate to the person making the application for a particular position, rather than the person deciding the application. The second purpose is to remove from the “work with children” category and to prescribe as a separate purpose, work as a taxi or private hire vehicle driver.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 At its meeting on 4th December 2013, the Joint Committee on Statutory Instruments decided to report the Police Act 1997 (Criminal Records) (Amendment No. 2) Regulations 2013 (S.I. 2013/2669) for defective drafting. In essence, the reason for this was that the effect of the changes made by those Regulations was that the prescribed purpose for which an enhanced criminal record certificate can be obtained was made to relate not to the person making the application for a particular position, but rather the person deciding the application. The Home Office (in a Memorandum sent to the Committee prior to its decision), whilst expressing the view that the regulations made were clear as to their purpose and effect, said that it would amend the regulations at the earliest opportunity. The current instrument seeks to address the reasons for the Committee’s report.

4. **Legislative Context**

4.1 Section 113B(2) of the Police Act 1997 enables the Secretary of State to prescribe the purposes for which an enhanced criminal record certificate must be provided in response to an application made to the Disclosure and Barring Service (DBS). An enhanced certificate includes, in addition to any criminal convictions or cautions, details of any information which a chief officer of police reasonably believes to be relevant to the purpose of the application. These purposes are set out in the 2002 regulations.

4.2 These Regulations set out “work with children” and “work with adults” as two of the prescribed purposes for which an enhanced criminal record certificate can be obtained. There are also a number of other purposes which do not fall within these two categories.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

## **6. European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- What is being done and why

7.1 A single prescribed purpose of work with children (and a separate prescribed purpose in relation to adults) is set out in the Regulations in order to ensure that any information which a local chief officer of police reasonably believes to be relevant to any work or activities with children in the categories listed within that prescribed purpose, and which ought to be included, is disclosed on an enhanced criminal record certificate. The information provided on certificates is intended to assist employers and other organisations, including those using volunteers, to reach informed decisions about the suitability of applicants to undertake such work. Providing grouped categories, rather than separate categories listed in earlier regulations, ensures that information relevant to any work with children is disclosed.

7.2 By virtue of this instrument, the purpose of work as a taxi or private hire vehicle driver has been separated from the “work with children” category. This is because inclusion in the work with children category means that chief officers of police must consider and include, in relation to applications for work with children, information which is relevant only to work as a taxi driver. The need to consider this information provides an additional burden on police and may result in the disclosure of information on certificates relating to work with children which it is unnecessary to include. Information relating to taxi and private hire vehicle drivers will therefore be considered as a separate category and only included on certificates requested for that purpose.

- Consolidation

7.3 There are no current plans to consolidate relevant legislation.

## **8. Consultation outcome**

8.1 The police service has been consulted about the change relating to taxi and private hire vehicle drivers. Public consultation was not considered necessary.

**9. Guidance**

9.1 Guidance will be available on the Disclosure and Barring Service website.

**10. Impact**

10.1 The impact on business, charities or voluntary bodies is to provide them with clear information to assist in making suitability decisions. There are no cost or regulatory implications.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

11.1 The legislation does not impact upon small business.

**12. Monitoring & review**

12.1 These arrangements are kept under review.

**13. Contact**

Stewart Baxter at the Home Office. Tel: 020 7035 3265 or email: [Stewart.Baxter2@btinternet.com](mailto:Stewart.Baxter2@btinternet.com) .