



Jersey

**POLICE ACT 1997 (CRIMINAL RECORDS)
(JERSEY) (AMENDMENT) ORDER 2012**

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APPENDIX



Jersey

POLICE ACT 1997 (CRIMINAL RECORDS) (JERSEY) (AMENDMENT) ORDER 2012

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Jersey

L.41/2012

POLICE ACT 1997 (CRIMINAL RECORDS) (JERSEY) (AMENDMENT) ORDER 2012

*Sanctioned by Order of Her Majesty in Council**17th October 2012**Registered by the Royal Court**2nd November 2012**In force date**3rd November 2012*

HER MAJESTY, in exercise of the powers conferred upon Her by section 168 of the Serious Organised Crime and Police Act 2005, section 66(4) of the Safeguarding Vulnerable Groups Act 2006 and section 118 of the Protection of Freedoms Act 2012, is pleased, by and with the advice of Her Privy Council, to make the following Order:

1 Citation and commencement

- (1) This Order may be cited as the Police Act 1997 (Criminal Records) (Jersey) (Amendment) Order 2012.
- (2) This Order comes into force on the day after the day on which it is registered by the Royal Court of Jersey.
- (3) Notwithstanding paragraph (2) –
 - (a) any provision extended as specified in paragraph (2) of article 4 and any provision in any Part extended as specified in paragraphs (3) to (6) of article 4 (subject to the modifications specified in Schedules 1 to 5 of this Order) does not have effect in Jersey until the day that provision comes into force in England and Wales;
 - (b) paragraph (4) of Schedule 1 shall have effect in Jersey when the extensions and modifications specified in paragraphs (3) to (6) of article 4 have effect in Jersey.

2 Interpretation

- (1) In this Order –

“the 2010 Order” means the Police Act 1997 (Criminal Records) (Jersey) Order 2010¹;

“the 2012 Act” means the Protection of Freedoms Act 2012;

“Jersey” means the Bailiwick of Jersey and its adjacent territorial sea.

- (2) The Interpretation (Jersey) Law 1954² shall apply to this Order as if this Order were an enactment for the purposes of that Law.

3 Amendment of the 2010 Order

- (1) The 2010 Order³ is amended as follows.
- (2) In article 1(4), for “upon the ending of the second transitional period” substitute “on such day as the Minister for Home Affairs for Jersey may by Order appoint”.
- (3) In article 2(1), the definitions of “the first transitional period” and “the second transitional period” are omitted.
- (4) Articles 6, 7 and 8 are revoked.
- (5) In paragraph 17(a)(i) of Schedule 1, for “in England and Wales, Northern Ireland, Guernsey or the Isle of Man” substitute “in England and Wales, Northern Ireland, the Isle of Man, Guernsey or Jersey”.
- (6) Schedule 3 is revoked.

4 Extension of Part 5 of, and Schedules 9 and 10 to, the Protection of Freedoms Act 2012 to Jersey

- (1) The following provisions of Part 5 (Safeguarding of vulnerable groups, criminal records, etc.) of the 2012 Act extend to Jersey subject to the modifications specified in Schedule 1.
- (2) The provisions are –
- (a) section 79 (restriction on information provided to certain persons);
 - (b) section 80 (minimum age for applicants for certificates or to be registered);
 - (c) section 82 (enhanced criminal record certificates: additional safeguards);
 - (d) section 83 (up-dating certificates);
 - (e) section 84 (criminal conviction certificates: conditional cautions);
 - (f) section 87 (formation and constitution of DBS);
 - (g) section 88 (transfer of functions to DBS and dissolution of ISA);
 - (h) section 89 (orders under section 88).
- (3) Part 6 of Schedule 9 (Safeguarding of vulnerable groups) to the 2012 Act extends to Jersey subject to the modifications specified in Schedule 2.
- (4) Part 7 of Schedule 9 (Criminal records) to the 2012 Act extends to Jersey subject to the modifications specified in Schedule 3.
- (5) Part 5 of Schedule 10 (Safeguarding of vulnerable groups) to the 2012 Act extends to Jersey subject to the modifications specified in Schedule 4.
- (6) Part 6 of Schedule 10 (Criminal records) to the 2012 Act extends to Jersey subject to the modifications specified in Schedule 5.

5 Subordinate legislation made under extended provisions

Any order or regulations made by the Secretary of State under the provisions extended to Jersey by this Order shall not have effect in Jersey until the order or regulations, having been communicated to the Bailiff of Jersey for registration by the Royal Court, have been so registered; and they shall come into force on the day following registration or the day of coming into force specified in the order or regulations, whichever is the later.

RICHARD TILBROOK

Clerk of the Privy Council

SCHEDULE 1

(Article 4(1))

MODIFICATIONS TO PROVISIONS OF PART 5 OF THE 2012 ACT

1

In section 79 (restriction on information provided to certain persons) –

- (a) omit subsection (1);
- (b) in subsection (3) for “120AB” substitute “120ZA”.

2

In section 80 (minimum age for applicants for certificates or to be registered) –

- (a) in the heading omit “or to be registered”;
- (b) omit subsection (2).

3

In section 82 (enhanced criminal record certificates: additional safeguards), in subsection (3)(a) at the end of the inserted definition of “relevant chief officer” add “and the Chief Officer of the States of Jersey Police Force”.

4

After section 84 insert the following section –

“84A Consequential amendments, repeals and revocations

- (1) Schedule 9 (consequential amendments) has effect.
- (2) The provisions listed in Schedule 10 are repealed or (as the case may be) revoked to the extent specified.”.

5

In section 87 (formation and constitution of DBS), omit subsection (3).

6

In section 88 (transfer of functions to DBS and dissolution of ISA), for subsection (2) substitute –

“(2) The Secretary of State may by order transfer to DBS any function of the Secretary of State under, or in connection with, Part 5 of the Police Act 1997 (criminal records).”.

7

In section 89 (orders under section 88) –

- (a) omit subsections (2) to (4);
- (b) for subsection (5), substitute –

“(5) In this section ‘enactment’ does not include an enactment within the meaning of Article 1 of the Interpretation (Jersey) Law 1954.”.

SCHEDULE 2

(Article 4(3))

MODIFICATIONS TO PART 6 OF SCHEDULE 9 TO THE 2012 ACT

1

Omit paragraphs 36 and 37.

2

Omit paragraphs 40 to 42.

3

Omit paragraphs 43 to 103.

SCHEDULE 3

(Article 4(4))

MODIFICATIONS TO PART 7 OF SCHEDULE 9 TO THE 2012 ACT**1**

For paragraph 107 substitute –

“107

In section 116, for subsection (3) substitute –

- (3) Sections 113B(3) to (11), 113BA to 113BC, 120AC and 120AD shall apply in relation to this section with any necessary modifications.”.

2

In paragraph 109 –

- (a) in subparagraph (2)(b) for “, 117A” substitute “or 117A”;
- (b) in subparagraph (3), in the inserted subsection (3A) –
- (i) for the first reference to the “Secretary of State” substitute “Minister for Home Affairs”;
- (ii) after “fingerprints” insert “for transmission to the Secretary of State”.

3

In paragraph 110 –

- (a) for subparagraph (2), substitute –
- “(2) In subsection (1A), after ‘certificate’ insert ‘, or the provision of up-date information under section 116A’.”;
- (b) for subparagraph (5), substitute –
- “(5) In subsection (4) after ‘certificate’ insert ‘, or the provision of up-date information under section 116A’.”;
- (c) for subparagraph (6), substitute –
- “(6) In subsection (8), after ‘certificate’ insert ‘, or the provision of up-date information under section 116A’.”.

4

For paragraph 112 substitute –

"112

- (1) Section 120 (registered persons), is amended as follows.
- (2) In subsection (2), after paragraph (a) insert 'and'."

5

Omit paragraphs 113 and 114.

6

Omit paragraphs 119 and 129.

SCHEDULE 4

(Article 4(5))

MODIFICATIONS TO PART 5 OF SCHEDULE 10 TO THE 2012 ACT

For Part 5 substitute –

“PART 5**SAFEGUARDING OF VULNERABLE GROUPS**

<i>Short title</i>	<i>Extent of repeal or revocation</i>
Police Act 1997	Section 113BA(2)(b) to (d)
	Section 113BB(2)(b) to (d)”. .

SCHEDULE 5

(Article 4(6))

MODIFICATIONS TO PART 6 OF SCHEDULE 10 TO THE 2012 ACT

For Part 6 substitute –

“PART 6
CRIMINAL RECORDS

<i>Short title</i>	<i>Extent of repeal</i>
Police Act 1997	<p>Section 113A(4)</p> <p>In section 113B –</p> <p>(a) in subsection (4), the words “, in the chief officer’s opinion”,</p> <p>(b) subsections (5) and (6), and</p> <p>(c) in subsection (9), the definition of “relevant police force”.</p> <p>In section 119B –</p> <p>(a) subsection (5)(a), and</p> <p>(b) in subsection (5)(c), the words from “or disclosed” to the end.</p> <p>In section 124 –</p> <p>(a) in subsection (4)(b), the words “(5) or”, and</p> <p>(b) subsection (5).</p> <p>In section 124A(1)(c), the words “or registered person”.</p>
Safeguarding Vulnerable Groups Act 2006	In Schedule 9, paragraph 14(5) and (6).”.

PROTECTION OF FREEDOMS ACT 2012

(2012 c. 9)

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ELIZABETH II

2012 c. 9

AN ACT to provide for the destruction, retention, use and other regulation of certain evidential material; to impose consent and other requirements in relation to certain processing of biometric information relating to children; to provide for a code of practice about surveillance camera systems and for the appointment and role of the Surveillance Camera Commissioner; to provide for judicial approval in relation to certain authorisations and notices under the Regulation of Investigatory Powers Act 2000; to provide for the repeal or rewriting of powers of entry and associated powers and for codes of practice and other safeguards in relation to such powers; to make provision about vehicles left on land; to amend the maximum detention period for terrorist suspects; to replace certain stop and search powers and to provide for a related code of practice; to make provision about the safeguarding of vulnerable groups and about criminal records including provision for the establishment of the Disclosure and Barring Service and the dissolution of the Independent Safeguarding Authority; to disregard convictions and cautions for certain abolished offences; to make provision about the release and publication of datasets held by public authorities and to make other provision about freedom of information and the Information Commissioner; to make provision about the trafficking of people for exploitation and about stalking; to repeal certain enactments; and for connected purposes.

[1st May 2012]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows⁴ –

PART 1

* * * * *

PART 2

* * * * *

PART 3

* * * * *

PART 4

* * * * *

PART 5**SAFEGUARDING VULNERABLE GROUPS, CRIMINAL RECORDS ETC.****CHAPTER 1**

* * * * *

CHAPTER 2**CRIMINAL RECORDS***Safeguards in relation to certificates***79 Restriction on information provided to certain persons**

(1) * * * *

(2) Omit –

- (a) section 113A(4) of the Police Act 1997 (requirement to send copy of criminal record certificate to registered person); and
- (b) section 113B(5) and (6) of that Act (requirement to give relevant information, and copy of enhanced criminal record certificate to registered person).

(3) After section [120ZA] of the Police Act 1997 (procedure for certain cancellations or suspensions of registration) insert –

“120AC Registered persons: information on progress of an application

- (1) The Secretary of State 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 Secretary of State 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 section 128 of the Education and Skills Act 2008 or section 167A of the Education Act 2002,

the Secretary of State may inform the person who made the request that the certificate was such a certificate.
- (5) If no certificate has been issued, the Secretary of State must inform the person who made the request of such other matters relating to the processing of the application as the Secretary of State considers appropriate.
- (6) Subject to subsections (2) to (4), nothing in this section permits the Secretary of State 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 Secretary of State 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 Act 2006 have the same meaning in that paragraph as in that Act.

120AD Registered persons: copies of certificates in certain circumstances

- (1) Subsection (2) applies if –
 - (a) the Secretary of State 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 Secretary of State 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 Secretary of State under section 113A(2A) or 113B(2A),
 - (b) has informed the Secretary of State 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.”

80 Minimum age for applicants for certificates * * *

- (1) In sections 112(1), 113A(1), 113B(1), 114(1) and 116(1) of the Police Act 1997 (applications for certificates), before the word “and” at the end of paragraph (a), insert –
- “(aa) is aged 16 or over at the time of making the application,”.
- (2) * * * * *

81 * * * * *

82 Enhanced criminal record certificates: additional safeguards

- (1) In subsection (4) of section 113B of the Police Act 1997 (enhanced criminal record certificates: requests by the Secretary of State to chief officers for information) –
- (a) for “the chief officer of every relevant police force” substitute “any relevant chief officer”,
 - (b) omit “, in the chief officer’s opinion”,
 - (c) in paragraph (a), for “might” substitute “the chief officer reasonably believes to”, and
 - (d) in paragraph (b), at the beginning insert “in the chief officer’s opinion,”.
- (2) After subsection (4) of that section of that Act insert –
- “(4A) In exercising functions under subsection (4) a relevant chief officer must have regard to any guidance for the time being published by the Secretary of State.”
- (3) In subsection (9) of that section of that Act –
- (a) before the definition of “relevant police force” insert –

““relevant chief officer” means any chief officer of a police force who is identified by the Secretary of State for the purposes of making a request under subsection (4) [and the Chief Officer of the States of Jersey Police Force].”, and
 - (b) omit the definition of “relevant police force”.

(4) After section 117(1) of that Act (disputes about accuracy of certificates) insert –

“(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 Secretary of State for a decision as to whether or not the information is inaccurate.”

(5) After section 117 of that Act insert –

“117A Other disputes about section 113B(4) information

(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 the Secretary of State of that fact, and
- (b) on being so informed, the Secretary of State must issue a new certificate.

(6) In issuing such a certificate, the Secretary of State 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.”

*Up-dating and content of certificates***83 Up-dating certificates**

After section 116 of the Police Act 1997 (enhanced criminal record certificates: judicial appointments and Crown employment) insert –

“116A Up-dating certificates

- (1) The Secretary of State 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) The Secretary of State 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 the Secretary of State for the certificate to be subject to up-date arrangements,
 - (b) the individual has paid in the prescribed manner any prescribed fee,
 - (c) the Secretary of State 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 the Secretary of State 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) the Secretary of State 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.
- (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) The Secretary of State 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,

“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).”

84 Criminal conviction certificates: conditional cautions

In section 112(2) of the Police Act 1997 (contents of a criminal conviction certificate) –

- (a) in paragraph (a) after “conviction” insert “or conditional caution”, and
- (b) in paragraph (b) for “is no such conviction” substitute “are no such convictions and conditional cautions”.

[84A Consequential amendments, repeals and revocations

- (1) Schedule 9 (consequential amendments) has effect.
- (2) The provisions listed in Schedule 10 are repealed or (as the case may be) revoked to the extent specified.]

Other

85 * * * * *

86 * * * * *

CHAPTER 3**THE DISCLOSURE AND BARRING SERVICE***General***87 Formation and constitution of DBS**

- (1) There is to be a body corporate known as the Disclosure and Barring Service.
- (2) In this Chapter “DBS” means the Disclosure and Barring Service.
- (3) * * * *

88 Transfer of functions to DBS and dissolution of ISA

- (1) The Secretary of State may by order transfer any function of ISA to DBS.
- [(2) The Secretary of State may by order transfer to DBS any function of the Secretary of State under, or in connection with, Part 5 of the Police Act 1997 (criminal records).]
- (3) The Secretary of State may by order provide for the dissolution of ISA.
- (4) In this section –
“function” does not include any power of the Secretary of State to make an order or regulations,
“ISA” means the Independent Safeguarding Authority.

*Supplementary***89 Orders under section 88**

- (1) Any power to make an order under section 88 –
 - (a) is exercisable by statutory instrument,
 - (b) includes power to make consequential, supplementary, incidental, transitional, transitory or saving provision,
 - (c) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an enactment (whenever passed or made and including this Act).
- (2) * * * *

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|-----|---|---|---|---|---|
| (3) | * | * | * | * | * |
| (4) | * | * | * | * | * |

[(5) In this section “enactment” does not include an enactment within the meaning of Article 1 of the Interpretation (Jersey) Law 1954⁵.]

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CHAPTER 4

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PART 6

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PART 7

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SCHEDULES**SCHEDULE 1**

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SCHEDULE 2

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SCHEDULE 3

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SCHEDULE 4

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SCHEDULE 5

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SCHEDULE 6

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SCHEDULE 7

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SCHEDULE 8

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SCHEDULE 9

(Section 115(1))

CONSEQUENTIAL AMENDMENTS**PART 1**

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PART 2

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PART 3

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PART 4

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PART 5

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PART 6**SAFEGUARDING OF VULNERABLE GROUPS**

Police Act 1997

35

The Police Act 1997 is amended as follows.

36–37 * * * * *

38

In section 113BA(2) (suitability information relating to children) omit paragraphs (b) to (d).

39

In section 113BB(2) (suitability information relating to vulnerable adults) omit paragraphs (b) to (d).

40–42 * * * * *

Safeguarding Vulnerable Groups Act 2006

43–74 * * * * *

Safeguarding Vulnerable Groups (Northern Ireland) Order 2007

75–103 * * * * *

PART 7**CRIMINAL RECORDS***Police Act 1997***104**

The Police Act 1997 is amended as follows.

105

In section 113BC(1) (suitability information: power to amend), after paragraph (b), insert

- “;
- (c) amend section 120AC(4)(b) in consequence of an order made under paragraph (a) or (b).”

106

In section 114(3) (application of other provisions of Part 5 to an application under that section), for “Section 113A(3) to (6)” substitute “Sections 113A(3) to (6), 120AC and 120AD”.

[107]

In section 116, for subsection (3) substitute –

- “(3) Sections 113B(3) to (11), 113BA to 113BC, 120AC and 120AD shall apply in relation to this section with any necessary modifications.”.]

108

- (1) Section 117 (disputes about accuracy of certificates) is amended as follows.
- (2) In the title, for “accuracy of certificates” substitute “certificates and up-date information”.

- (3) After subsection (1A) insert –
 - “(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 the Secretary of State for corrected up-date information.”.
- (4) In subsection (2) –
 - (a) after “inaccurate” insert “, or that the wrong up-date information has been given,”, and
 - (b) after “new certificate” insert “or (as the case may be) corrected up-date information”.
- (5) After subsection (2) insert –
 - “(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.”

109

- (1) Section 118 (evidence of identity) is amended as follows.
- (2) In subsection (1) –
 - (a) after “consider” insert “an application as mentioned in section 116A(4)(a) or (5)(a) or”, and
 - (b) after “117” insert [“ or 117A”].
- (3) After subsection (3) insert –
 - “(3A) The [Minister for Home Affairs] 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 transmission to the Secretary of State] for the sole purpose of enabling the Secretary of State to verify whether information in the possession of the Secretary of State that the Secretary of State 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), the Secretary of State 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) In subsection (4) after “117” insert “or 117A”.

110

- (1) Section 119 (sources of information) is amended as follows.

- [(2) In subsection (1A), after “certificate” insert “, or the provision of up-date information under section 116A”.]
- (3) In subsection (1B), for the words from “determining” to the end substitute “deciding whether to make a request to that chief officer under section 113B(4)”.
- (4) After subsection (2) insert –
 - “(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.”
- [(5) In subsection (4) after “certificate” insert “, or the provision of up-date information under section 116A”.]
- [(6) In subsection (8) after “certificate” insert “, or the provision of up-date information under section 116A”.]

111

- (1) Section 119B (independent monitor) is amended as follows.
- (2) Omit subsection (5)(a).
- (3) In subsection (5)(c), omit the words from “or disclosed” to the end.
- (4) After subsection (5)(c) insert –
 - “(ca) a sample of cases in which the chief officer of a police force has decided that information should be disclosed or not disclosed to the Secretary of State for the purpose of the provision by the Secretary of State of up-date information under section 116A.”
- (5) After subsection (8) insert –
 - “(8A) The independent monitor has the functions conferred on the monitor by section 117A.”
- (6) In subsection (9) after “section” insert “or section 117A”.

[112

- (1) Section 120 (registered persons), is amended as follows.
- (2) In subsection (2), after paragraph (a) insert “and”.]

113–114 *

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115

- (1) Section 124 (offences: disclosure) is amended as follows.
- (2) In subsection (4) –
 - (a) in paragraph (b), omit “(5) or”, and
 - (b) for “subsections (5) and (6)” substitute “subsection (6)”.

- (3) Omit subsection (5).

116

- (1) Section 124A (offences relating to disclosure of information obtained in connection with delegated function) is amended as follows.
- (2) In subsection (1)(c) omit “or registered person”.
- (3) After subsection (6) insert –

“(6A) For the purposes of this section the reference to an applicant includes a person who makes a request under section 116A(1), 120AC(1) or 120AD(2).”

117

After section 125B(2) (form of applications) insert –

- “(3) In this section “application” includes a request under section 116A(1), 120AC(1) or 120AD(2).”

118

In section 126(1) (interpretation of Part 5), in the definition of “certificate”, after “application” insert “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.”

119–129 * * * * *

PART 8

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PART 9

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PART 10

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PART 11

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PART 12

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SCHEDULE 10

(Section 115(2))

REPEALS AND REVOCATIONS

PART 1

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PART 2

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PART 3

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PART 4

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[PART 5

SAFEGUARDING OF VULNERABLE GROUPS

<i>Short title</i>	<i>Extent of repeal or revocation</i>
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Police Act 1997	Section 113BA(2)(b) to (d) Section 113BB(2)(b) to (d)]
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[PART 6**CRIMINAL RECORDS**

<i>Short title</i>	<i>Extent of repeal</i>
Police Act 1997	<p>Section 113A(4).</p> <p>Section 113B –</p> <p>(a) in subsection (4), the words “, in the chief officer’s opinion”,</p> <p>(b) subsections (5) and (6), and</p> <p>(c) in subsection (9), the definition of “relevant police force”.</p> <p>In section 119B –</p> <p>(a) subsection (5)(a), and</p> <p>(b) in subsection (5)(c), the words from “or disclosed” to the end.</p> <p>In section 124 –</p> <p>(a) in subsection (4)(b), the words “(5) or”, and</p> <p>(b) subsection (5).</p> <p>In section 124A(1)(c), the words “or registered person”.]</p>

PART 7

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PART 8

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PART 9

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PART 10

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PART 11

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- 1 chapter 23.320*
- 2 chapter 15.360*
- 3 chapter 23.320*
- 4 Deletions and words in square brackets indicate adaptations and
modifications made by The Police Act 1997 (Criminal Records)
(Jersey) (Amendment) Order 2012*
- 5 chapter 15.360*