



Jersey

**POLICE ACT 1997 (CRIMINAL RECORDS)
(JERSEY) ORDER 2010**

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APPENDIX



Jersey

POLICE ACT 1997 (CRIMINAL RECORDS) (JERSEY) ORDER 2010

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Jersey

L.4/2010

POLICE ACT 1997 (CRIMINAL RECORDS) (JERSEY) ORDER 2010

*Sanctioned by Order of Her Majesty in Council**17th March 2010**Registered by the Royal Court**9th April 2010**In force**in accordance with Article 1*

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 384(1) of the Armed Forces Act 2006, by and with the advice and consent of Her Privy Council, makes the following Order –

1 Citation and commencement

- (1) This Order may be cited as the Police Act 1997 (Criminal Records) (Jersey) Order 2010.
- (2) Subject to paragraphs (3) to (5) this Order comes into force on the day after the day on which it is made.
- (3) Article 3(2)(a) (the extension of section 112 of the 1997 Act) and the modifications specified in paragraph 1 of Schedule 1 come into force on the day on which section 112 of the 1997 Act comes into force in England and Wales.
- (4) Article 4(2)(d) (the extension of the repeal of section 113E of the 1997 Act) comes into force upon the ending of the second transitional period.
- (5) The modifications specified in paragraph 2(b)(ii) of Schedule 2 come into force on the day on which section 170(2) of the Education and Inspections Act 2006 (prohibition on participation in management: supplementary) comes into force in England and Wales.

2 Interpretation

- (1) In this Order –
 - “the 1997 Act” means the Police Act 1997;
 - “the 2006 Act” means the Safeguarding Vulnerable Groups Act 2006;

“the first transitional period” has the same meaning as in article 1(2) of the Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009;

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

“the second transitional period” has the same meaning as in article 1(2) of the Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009.

- (2) The Interpretation (Jersey) Law 1954¹ shall apply to this Order as if this Order were an enactment for the purposes of that Law.

3 Extension of Part 5 of the Police Act 1997 to Jersey

- (1) The following provisions of Part 5 (Certificates of criminal records, &c) of the 1997 Act, as amended by the Greater London Authority Act 1999, the Police (Northern Ireland) Act 2000, the Criminal Justice and Police Act 2001, the Criminal Justice Act 2003 and the Serious Organised Crime and Police Act 2005, extend to Jersey subject to the modifications specified in Schedules 1 and 3.
- (2) The provisions are –
- (a) section 112 (criminal conviction certificates);
 - (b) section 113A (criminal record certificates);
 - (c) section 113B (enhanced criminal record certificates);
 - (d) section 113E (criminal record certificates: specified children’s and adults’ lists: urgent cases);
 - (e) section 114 (criminal record certificates: Crown employment);
 - (f) section 116 (enhanced criminal record certificates: judicial appointments and Crown employment);
 - (g) section 117 (disputes about accuracy of certificates);
 - (h) section 118 (evidence of identity);
 - (i) section 119 (sources of information);
 - (j) section 120 (registered persons);
 - (k) section 120ZA (regulations about registration);
 - (l) section 122A (delegation of functions of Secretary of State);
 - (m) section 123 (offences: falsification, &c);
 - (n) section 124 (offences: disclosure);
 - (o) section 124A (further offences: disclosure of information obtained in connection with delegated function);
 - (p) section 125 (regulations);
 - (q) section 126 (interpretation of Part 5);
 - (r) section 127 (saving: disclosure of information and records).

4 Extension of the Safeguarding Vulnerable Groups Act 2006 to Jersey

- (1) The following provisions of the 2006 Act extend to Jersey subject to the modifications specified in Schedules 2 and 3.
- (2) The provisions are –
 - (a) section 28 (independent monitor);
 - (b) section 63 (amendments and repeals);
 - (c) Schedule 9 (amendments), paragraph 14 (Police Act 1997 (c. 50));
 - (d) Schedule 10 (repeals), entry in relation to section 113E of the 1997 Act.

5 Extension of the Armed Forces Act 2006 to Jersey

- (1) The following provisions of the Armed Forces Act 2006 extend to Jersey.
- (2) The provisions are –
 - (a) section 378(1) (minor and consequential amendments and repeals);
 - (b) Schedule 16 (minor and consequential amendments), paragraph 149 (Police Act 1997 (c. 50)).

6 Modifications that have effect for a limited period

- (1) Part 1 of Schedule 3 specifies modifications that have effect from the date referred to in article 1(2) until the end of the first transitional period.
- (2) The modification to section 119(1A) of the 1997 Act specified in paragraph 1 of Schedule 3 has effect instead of the modification specified in paragraph 8(a) of Schedule 1.
- (3) The modifications to paragraph 14(4) of Schedule 9 to the 2006 Act specified in paragraph 2(a) of Schedule 3 have effect instead of the modifications specified in paragraph 2(b)(ii) of Schedule 2.
- (4) The modifications to paragraph 14(4) of Schedule 9 to the 2006 Act specified in paragraph 2(b) of Schedule 3 have effect in addition to the modifications specified in paragraph 2(b) of Schedule 2.

7

- (1) Part 2 of Schedule 3 specifies modifications that have effect from the date referred to in article 1(2) until the end of the second transitional period.
- (2) Those modifications have effect in addition to the modifications specified in paragraph 2 of Schedule 2.

8

- (1) Part 3 of Schedule 3 specifies modifications that have effect for the second transitional period.

- (2) The modifications to paragraph 14(4) of Schedule 9 to the 2006 Act specified in paragraph 4(a) of Schedule 3 have effect instead of the modifications specified in paragraph 2(b)(ii) of Schedule 2.
- (3) The modifications to paragraph 14(4) of Schedule 9 specified in paragraph 4(b) of Schedule 3 have effect in addition to the modifications specified in paragraph 2(b) of Schedule 2.

9 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 in 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.

JUDITH SIMPSON

Clerk of the Privy Council

SCHEDULE 1

Article 3

MODIFICATIONS TO PROVISIONS OF PART 5 OF THE POLICE ACT 1997

1. In section 112 (criminal conviction certificates) –
 - (a) in subsection (1)(a) omit “in the prescribed manner and form”;
 - (b) in subsection (3) –
 - (i) in the definition of “central records”, after “records of convictions” insert “and conditional cautions”,
 - (ii) in the appropriate place insert –

“conditional caution” means a caution given under section 22 of the Criminal Justice Act 2003 (c. 44) or section 66A of the Crime and Disorder Act 1998 (c. 37), other than one that is spent for the purposes of Schedule 2 to the Rehabilitation of Offenders Act 1974 (c. 53);”.
2. In section 113A (criminal record certificates) –
 - (a) in subsection (1)(a) omit “in the prescribed manner and form”;
 - (b) after subsection (2) insert –

“(2A) But an application for a criminal record certificate need not be countersigned by a registered person if –

 - (a) the application is transmitted to the Secretary of State electronically by a registered person who satisfies conditions determined by the Secretary of State, and
 - (b) it is transmitted in accordance with requirements determined by the Secretary of State.”;
 - (c) in subsection (4) for “the registered person who countersigned” substitute “whoever acted as the registered person in relation to”;
 - (d) in subsection (6) –
 - (i) for the definition of “exempted question” substitute –

“exempted question” means a question which –

 - (a) so far as it applies to convictions, is a question in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act; and –
 - (b) so far as it applies to cautions, is a question to which paragraph 3(3) or (4) of Schedule 2 to that Act has been excluded by an order of the Secretary of State under paragraph 4 of that Schedule;”;
 - (ii) for the definition of “relevant matter” substitute –

“relevant matter” means –

- (a) a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction, and
 - (b) a caution, including a caution that is spent for the purposes of Schedule 2 to that Act.”;
 - (e) after subsection (7) insert –
 - “(8) For the purposes of this Part a person acts as the registered person in relation to an application for a criminal record certificate if the person –
 - (a) countersigns the application, or
 - (b) transmits the application to the Secretary of State under subsection (2A).”.
3. In section 113B (enhanced criminal record certificates) –
- (a) in subsection (1)(a) omit “in the prescribed manner and form”;
 - (b) after subsection (2) insert –
- “(2A) But an application for an enhanced criminal record certificate need not be countersigned by a registered person if –
- (a) the application is transmitted to the Secretary of State electronically by a registered person who satisfies conditions determined by the Secretary of State, and
 - (b) it is transmitted in accordance with requirements determined by the Secretary of State.”;
- (c) in subsection (6) for “the registered person who countersigned” substitute “whoever acted as the registered person in relation to”;
 - (d) after subsection (11) insert –
- “(12) For the purposes of this Part a person acts as the registered person in relation to an application for an enhanced criminal record certificate if the person –
- (a) countersigns the application, or
 - (b) transmits the application to the Secretary of State under subsection (2A).”.
- 4.-(1) In the heading to section 113E (criminal records certificates: specified children’s and adults’ lists: urgent cases) omit “children’s and”.
- (2) In section 113E (criminal records certificates: specified adults’ lists: urgent cases) –
- (a) omit subsections (1) and (2);
 - (b) in subsection (3) –
 - (i) omit “113A or”,
 - (ii) for paragraph (a) substitute –
- “(a) it is made in a case prescribed under section 113BB(1)”;
- (c) in subsection (5) omit the definitions of “children’s suitability statement”, “specified children’s direction”, “specified children’s list”, “adults’ suitability statement” and “specified adults’ list”;
 - (d) after subsection (5) insert –

- “(5A) For the purposes of this section each of the following is a specified adults’ list –
- (a) the list kept under section 81 of the Care Standards Act 2000 (c. 14);
 - (b) the adults’ barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006 (c. 47);
 - (c) the adults’ barred list maintained under article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)).”.
5. In section 114(1)(a) (criminal record certificates: Crown employment) omit “in the prescribed form”.
6. In section 116(1)(a) (enhanced criminal record certificates: judicial appointments and Crown employment) omit “in the prescribed form”.
7. In section 118 (evidence of identity) –
- (a) in subsection (1) omit “or 120”;
 - (b) after subsection (2) insert –
- “(2ZA) For the purpose of applications from persons resident in Jersey, “prescribed” in subsection (2)(a) and (b) means prescribed by Order of the Minister for Home Affairs.”;
- (c) after subsection (2A)(d) insert –
- “(da) by the Jersey Passport Office;
 - (db) by a Parish authority or by the States of Jersey for the purposes of the licensing and registration of motorists and motor vehicles;
 - (dc) by the Social Security Department of the States of Jersey in connection with keeping records of social security numbers;”;
- (d) in subsections (3) and (4) in each place where it occurs for “Regulations” substitute “An Order”.
8. In section 119 (sources of information) –
- (a) for subsection (1A) substitute –
- “(1A)(a) The Secretary of State may require the Independent Safeguarding Authority to make available specified information for the purpose of enabling the Secretary of State to carry out functions under this Part in relation to any application for a certificate.
- (b) In this section “Independent Safeguarding Authority” has the same meaning as in the Safeguarding Vulnerable Groups Act 2006.”;
- (b) in subsection (3) omit “section 120A(4) or”;
- (c) in subsection (4) for paragraphs (a) and (b) substitute “any application for a certificate”;
- (d) in subsection (6) for “(i)” substitute “(l)”.
9. In section 120 (registered persons) –
- (a) in subsection (2) –
- (i) omit “and 120AA and to section 120A”;

- (ii) in paragraph (b) for “subsections (4) to (6), and” substitute “subsections (4) and (5).”;
 - (iii) omit paragraph (c);
 - (b) for subsection (4) substitute –
 - “(4) The only person that may apply for registration under this section is the Minister for Home Affairs.”;
 - (c) in subsection (5) –
 - (i) for “A body” substitute “The Minister for Home Affairs when”;
 - (ii) for “it” substitute “he”;
 - (iii) for paragraph (b) substitute –
 - “(b) is likely to act as the registered person in relation to applications under section 113A or 113B at the request of bodies or individuals asking exempted questions.”;
 - (d) omit subsection (6).
- 10. In section 120ZA (regulations about registration) –
 - (a) in subsection (2)(d) –
 - (i) for sub-paragraphs (i) and (ii) substitute “the Minister for Home Affairs”;
 - (ii) omit “it or, as the case may be,”;
 - (iii) after “under this Part” insert “or the transmitting of applications under section 113A(2A) or 113B(2A)”;
 - (b) in subsection (3)(a) omit “or continued registration”;
 - (c) in subsection (4) –
 - (i) in paragraph (a) for “he countersigns” substitute “acting as the registered person in relation to”;
 - (ii) in paragraph (b) for “registered person who countersigns it” substitute “person who acts as the registered person in relation to the application.”;
 - (iii) omit paragraph (c) and the word “and” immediately preceding it.
- 11. In section 122A(2) (delegation of functions of Secretary of State) for paragraphs (a) and (b) substitute “to make regulations”.
- 12. In section 123(3) (offences; falsification &c), –
 - (a) omit “summary”; and
 - (b) for “level 5” substitute “level 4”.
- 13. In section 124 (offences: disclosure) –
 - (a) in subsection (1)(b) and (c) for “countersigned” substitute “acted as the registered person in relation to”;
 - (b) in subsection (2) for “countersigned” substitute “in relation to which the person who acted as the registered person did so”;

- (c) in subsection (3) for “countersigned by or at the request of an individual” substitute “in relation to which the person who acted as the registered person did so at the request of an individual”;
 - (d) in subsection (7) omit “summary”.
14. In section 124A (further offences: disclosure of information obtained in connection with delegated functions) –
- (a) in subsection (4) omit “summary” and for “51 weeks” substitute “six months”;
 - (b) omit subsection (5); and
 - (c) in subsection (6) for “(i)” substitute “(l)”.
15. For section 125 (regulations) substitute –
- “**125.**–(1) Subject to section 118(2ZA), anything authorised or required by any provision of this Part to be prescribed shall be prescribed by regulations made by the Secretary of State.
- (2) Regulations under this Part may make different provision for different cases.”.
16. Before section 126 insert –

“Form of Applications

- 125B.**–(1) The Secretary of State may determine the form, manner and contents of an application for the purposes of any provision of this Part.
- (2) A determination may, in particular, impose requirements about the form or manner in which an electronic application is to be signed or countersigned.”.
17. In section 126 (interpretation of Part 5) –
- (a) in subsection (1) –
 - (i) in the definition of “caution”, for “in England and Wales or Northern Ireland” substitute “in England and Wales, Northern Ireland, Guernsey or the Isle of Man”,
 - (ii) in the definition of “chief officer”, at the end of sub-paragraph (iii) insert –
 - “, and
 - (iv) the chief officer of the salaried Police Force of the Island of Guernsey, and
 - (v) the chief officer of the States of Jersey Police Force, and
 - (vi) the Chief Constable of the Isle of Man Constabulary;”,
 - (iii) in the definition of “government department”, after “a Northern Ireland department” insert “and any department of the States of Jersey”,
 - (iv) after the definition of “government department” insert the following definition –

“ “Minister for Home Affairs” means the Minister for Home Affairs for Jersey;”,

(v) omit the definition of “Minister of the Crown”,

(vi) in the definition of “police force”, at the end of sub-paragraph (ii) insert –

“and

(iii) the salaried Police Force of the Island of Guernsey, and

(iv) the States of Jersey Police Force, and

(v) the Isle of Man Constabulary;”,

(vii) after the definition of “prescribed” insert the following definition –

“ “standard scale” means the standard scale for the time being in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993². ”;

(b) for subsection (2) substitute –

“(2) Subject to subsection (2A), a reference to an Act, or to a provision of an Act, shall be construed as a reference to that Act or provision, as the case may be, as it has effect in England and Wales from time to time.

(2A) A reference to a provision of this Act extended to Jersey by Order in Council shall be construed as a reference to that provision as it has effect in Jersey.”;

(c) for subsections (3) and (4) substitute the following –

“(3) The Subordinate Legislation (Jersey) Law 1960³ applies to Orders made by the Minister for Home Affairs under this Part of this Act as if this Act were an enactment for the purposes of that Law.”.

SCHEDULE 2

Article 4

MODIFICATIONS TO PROVISIONS OF THE SAFEGUARDING VULNERABLE GROUPS ACT 2006

1. In section 28 –
 - (a) for “After section 119A of the Police Act 1997 (c. 50) (further sources of information: Scotland)” substitute “After section 119 of the Police Act 1997 (c. 50) (sources of information)”;
 - (b) in the provisions to be inserted as section 119B of the 1997 Act, omit subsection (5)(d) and (e).
2. In paragraph 14 of Schedule 9 –
 - (a) in sub-paragraph (2), in the provisions to be inserted after section 113A(6) of the 1997 Act, omit subsection (8);
 - (b) in sub-paragraph (4) –
 - (i) in the provisions to be inserted as sections 113BA(2)(d) and 113BB(2)(d) of the 1997 Act, for “Independent Barring Board” substitute “Independent Safeguarding Authority”;
 - (ii) in the provisions to be inserted as section 113BA of the 1997 Act, after subsection (2)(d) insert –

“(e) whether the applicant is subject to a direction under section 128 of the Education and Skills Act 2008 (c. 25) (prohibition on participation in management of independent educational institution in England) or section 167A of the Education Act 2002 (c. 32) (prohibition on participation in management of independent school in Wales).”;
 - (iii) in the provisions to be inserted as section 113BC of the 1997 Act, omit subsection (2);
 - (c) in sub-paragraph (7) –
 - (i) omit paragraph (c),
 - (ii) in paragraph (d), for the provision to be inserted as section 119(8) of the 1997 Act substitute –

“(8) In this section a relevant function is a function of the Secretary of State under this Part in relation to any application for a certificate.”.

SCHEDULE 3

Articles 6 to 8

MODIFICATIONS THAT HAVE EFFECT FOR A LIMITED PERIOD

PART 1

MODIFICATIONS THAT HAVE EFFECT FROM THE DATE REFERRED TO IN ARTICLE 1(2) UNTIL THE END OF THE FIRST TRANSITIONAL PERIOD

1. For section 119(1A) of the 1997 Act (sources of information) substitute –
“(1A) Any person who keeps the list under section 1 of the Protection of Children Act 1999 or under section 81 of the Care Standards Act 2000 or maintains a list under section 2 of the Safeguarding Vulnerable Groups Act 2006 shall make the contents of that list available to the Secretary of State for the purpose of enabling him to carry out his functions under this Part in relation to any application for a certificate.”.
2. In paragraph 14(4) of Schedule 9 to the 2006 Act –
 - (a) for the provision to be inserted as section 113BA(2) of the 1997 Act (suitability information relating to children) substitute –
“(2) Suitability information relating to children is whether the applicant –
 - (a) is provisionally included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14);
 - (b) is included in the list kept under section 1 of the Protection of Children Act 1999 otherwise than provisionally and disqualified from working with children for the purposes of section 35 of the Criminal Justice and Court Services Act 2000 (c. 43) or is barred from regulated activity relating to children;
 - (c) is subject to a direction made under section 142 of the Education Act 2002 (c. 32).
 - (2A) If the applicant is provisionally included in the list kept under section 1 of the Protection of Children Act 1999, the suitability information includes the fact that the applicant must not be employed or, as the case may be, must cease to be employed in a child care position with a child care organisation in accordance with section 7 of that Act.
 - (2B) If the applicant is subject to a direction made under section 142 of the Education Act 2002, the suitability information includes –
 - (a) details of any prohibition or restriction on the applicant’s employment;
 - (b) the grounds on which the direction was made, and, where the grounds are misconduct, details of the misconduct.

- (2C) In subsection (2A), “child care position” and “child care organisation” have the same meanings as in section 12 of the Protection of Children Act 1999.”;
- (b) for the provision to be inserted as section 113BB(2) of the 1997 Act (suitability information relating to vulnerable adults) substitute –
 - “(2) Suitability information relating to vulnerable adults is whether the applicant –
 - (a) is provisionally included in the list kept under section 81 of the Care Standards Act 2000 (c. 14);
 - (b) is included in the list kept under section 81 of the Care Standards Act 2000 otherwise than provisionally and prohibited from working in a care position or is barred from regulated activity relating to vulnerable adults.
- (2A) If the applicant is provisionally included in the list kept under section 81 of the Care Standards Act 2000, the suitability information includes the fact that the applicant must not be employed or, as the case may be, must cease to be employed in a care position.
- (2B) In subsection (2), “care position” has the same meaning as in Part 7 of the Care Standards Act 2000.”.

PART 2

MODIFICATIONS THAT HAVE EFFECT FROM THE DATE REFERRED TO IN ARTICLE 1(2) UNTIL THE END OF THE SECOND TRANSITIONAL PERIOD

- 3. In paragraph 14(6) of Schedule 9 to the 2006 Act for “113BA to 113BC” substitute “113BA, 113BB and 113E”.

PART 3

MODIFICATIONS THAT HAVE EFFECT FOR THE SECOND TRANSITIONAL PERIOD

- 4. In paragraph 14(4) of Schedule 9 to the 2006 Act –
 - (a) for the provision to be inserted as section 113BA(2) of the 1997 Act (suitability information relating to children) substitute –
 - “(2) Suitability information relating to children is –
 - (a) whether the applicant is included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14);
 - (b) whether the applicant is subject to a direction made under section 142 of the Education Act 2002 (c. 32);
 - (c) whether the applicant is barred from regulated activity relating to children;
 - (d) if the applicant is barred from such regulated activity, such details as are prescribed of the circumstances in which he became barred;

- (e) whether the applicant is subject to monitoring in relation to regulated activity relating to children;
 - (f) whether the Independent Safeguarding Authority is considering whether to include the applicant in the children's barred list in pursuance of paragraph 3 or 5 of Schedule 3 to the 2006 Act.
- (2A) If the applicant is included in the list kept under section 1 of the Protection of Children Act 1999, the suitability information includes whether the inclusion is provisional and –
- (a) if it is provisional, the fact that the applicant must not be employed or, as the case may be, must cease to be employed in a child care position with a child care organisation in accordance with section 7 of that Act;
 - (b) if it is not provisional, the fact that the applicant is disqualified from working with children for the purposes of section 35 of the Criminal Justice and Court Services Act 2000 (c. 43).
- (2B) If the applicant is subject to a direction made under section 142 of the Education Act 2002, the suitability information includes –
- (a) details of any prohibition or restriction on the applicant's employment;
 - (b) the grounds on which the direction was made, and, where the grounds are misconduct, details of the misconduct.
- (2C) In subsection (2A), "child care position" and "child care organisation" have the same meanings as in section 12 of the Protection of Children Act 1999.;"
- (b) for the provision to be inserted as section 113BB(2) of the 1997 Act (suitability information relating to vulnerable adults) substitute –
- “(2) Suitability information relating to vulnerable adults is –
- (a) whether the applicant is included in the list kept under section 81 of the Care Standards Act 2000 (c. 14);
 - (b) whether the applicant is barred from regulated activity relating to vulnerable adults;
 - (c) if the applicant is barred from such regulated activity, such details as are prescribed of the circumstances in which he became barred;
 - (d) whether the applicant is subject to monitoring in relation to regulated activity relating to vulnerable adults;
 - (e) whether the Independent Safeguarding Authority is considering whether to include the applicant in the adults' barred list in pursuance of paragraph 9 or 11 of Schedule 3 to the 2006 Act.
- (2A) If the applicant is included in the list kept under section 81 of the Care Standards Act 2000, the suitability information includes whether the inclusion is provisional and –
- (a) if it is provisional, the fact that the applicant must not be employed or, as the case may be, must cease to be employed in a care position;
 - (b) if it is not provisional, the fact that the applicant is prohibited from working in a care position.

(2B) In subsection (2A), “care position” has the same meaning as in Part 7 of the Care Standards Act 2000.”.



POLICE ACT 1997

1997 CHAPTER 50

ARRANGEMENT OF SECTIONS

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* * * * *

PART V

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* * * * *

SCHEDULES * * * * *

ELIZABETH II



POLICE ACT 1997

1997 CHAPTER 50

AN ACT to make provision for the National Criminal Intelligence Service and the National Crime Squad; to make provision about entry on and interference with property and with wireless telegraphy in the course of the prevention or detection of serious crime; to make provision for the Police Information Technology Organisation; to provide for the issue of certificates about criminal records; to make provision about the administration and organisation of the police; to repeal certain enactments about rehabilitation of offenders; and for connected purposes.

[21st March 1997]

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 follows –

PARTS I TO IV

* * * * *

PART V**CERTIFICATES OF CRIMINAL RECORDS, &C.****112 Criminal conviction certificates**

- (1) The Secretary of State shall issue a criminal conviction certificate to any individual who –
- (a) makes an application * * *, and
 - (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.
- (2) A criminal conviction certificate is a certificate which –
- (a) gives the prescribed details of every conviction of the applicant which is recorded in central records, or
 - (b) states that there is no such conviction.
- (3) In this section –
- “central records” means such records of convictions [and conditional cautions] held for the use of police forces generally as may be prescribed;
- [“conditional caution” means a caution given under section 22 of the Criminal Justice Act 2003 (c. 44) or section 66A of the Crime and Disorder Act (c. 37), other than one that is spent for the purposes of Schedule 2 to the Rehabilitation of Offenders Act 1974 (c. 53);]
- “conviction” means a conviction within the meaning of the Rehabilitation of Offenders Act 1974, other than a spent conviction.
- (4) Where an applicant has received a criminal conviction certificate, the Secretary of State may refuse to issue another certificate to that applicant during such period as may be prescribed.

113 * * * * *

113A Criminal record certificates

- (1) The Secretary of State must issue a criminal record certificate to any individual who –
- (a) makes an application * * *, and
 - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must –
- (a) be countersigned by a registered person, and
 - (b) be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.

- [(2A) But an application for a criminal record certificate need not be countersigned by a registered person if –
- (a) the application is transmitted to the Secretary of State electronically by a registered person who satisfies conditions determined by the Secretary of State, and
 - (b) it is transmitted in accordance with requirements determined by the Secretary of State.]
- (3) A criminal record certificate is a certificate which –
- (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records, or
 - (b) states that there is no such matter.
- (4) The Secretary of State must send a copy of a criminal record certificate to [whoever acted as the registered person in relation to] the application.
- (5) The Secretary of State may treat an application under this section as an application under section 113B if –
- (a) in his opinion the certificate is required for a purpose prescribed under subsection (2) of that section,
 - (b) the registered person provides him with the statement required by that subsection, and
 - (c) the applicant consents and pays to the Secretary of State the amount (if any) by which the fee payable in relation to an application under that section exceeds the fee paid in relation to the application under this section.
- (6) In this section –
- “central records” means such records of convictions and cautions held for the use of police forces generally as may be prescribed;
- [“exempted question” means a question which –
- (a) so far as it applies to convictions, is a question in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act; and –
 - (b) so far as it applies to cautions, is a question to which paragraph 3(3) or (4) of Schedule 2 to that Act has been excluded by an order of the Secretary of State under paragraph 4 of that Schedule;]

[“relevant matter” means –

 - (a) a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction; and
 - (b) a caution, including a caution that is spent for the purposes of Schedule 2 to that Act.]

(7) The Secretary of State may by order amend the definitions of “central records” and “relevant matter” in subsection (6).

[(8) For the purposes of this Part, a person acts as the registered person in relation to an application for a criminal record certificate if the person –

 - (a) countersigns the application, or

- (b) transmits the application to the Secretary of State under subsection (2A).]

113B Enhanced criminal record certificates

- (1) The Secretary of State must issue an enhanced criminal record certificate to any individual who –
- (a) makes an application * * *, and
 - (b) pays in the prescribed manner any prescribed fee.
- (2) The application must –
- (a) be countersigned by a registered person, and
 - (b) be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question asked for a prescribed purpose.
- [(2A) But an application for an enhanced criminal record certificate need not be countersigned by a registered person if –
- (a) the application is transmitted to the Secretary of State electronically by a registered person who satisfies the conditions determined by the Secretary of State, and
 - (b) it is transmitted in accordance with requirements determined by the Secretary of State.]
- (3) An enhanced criminal record certificate is a certificate which –
- (a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records and any information provided in accordance with subsection (4), or
 - (b) states that there is no such matter or information.
- (4) Before issuing an enhanced criminal record certificate the Secretary of State must request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion –
- (a) might be relevant for the purpose described in the statement under subsection (2), and
 - (b) ought to be included in the certificate.
- (5) The Secretary of State must also request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion –
- (a) might be relevant for the purpose described in the statement under subsection (2),
 - (b) ought not to be included in the certificate, in the interests of the prevention or detection of crime, and
 - (c) can, without harming those interests, be disclosed to the registered person.
- (6) The Secretary of State must send to [whoever acted as the registered person in relation to] the application –
- (a) a copy of the enhanced criminal record certificate, and
 - (b) any information provided in accordance with subsection (5).

- (7) The Secretary of State may treat an application under this section as an application under section 113A if in his opinion the certificate is not required for a purpose prescribed under subsection (2).
- (8) If by virtue of subsection (7) the Secretary of State treats an application under this section as an application under section 113A, he must refund to the applicant the amount (if any) by which the fee paid in relation to the application under this section exceeds the fee payable in relation to an application under section 113A.
- (9) In this section –
- “central records”, “exempted question”, and “relevant matter” have the same meaning as in section 113A;
- “relevant police force”, in relation to an application under this section, means a police force which is a relevant police force in relation to that application under regulations made by the Secretary of State.
- (10) For the purposes of this section references to a police force include any of the following –
- (a) the Royal Navy Police;
 - (c) the Royal Military Police;
 - (d) the Royal Air Force Police;
 - (e) the Ministry of Defence Police;
 - (f) the National Criminal Intelligence Service;
 - (g) the National Crime Squad;
 - (h) the British Transport Police;
 - (i) the Civil Nuclear Constabulary;
 - (j) the States of Jersey Police Force;
 - (k) the salaried police force of the Island of Guernsey;
 - (l) the Isle of Man Constabulary;
 - (m) a body with functions in any country or territory outside the British Islands which correspond to those of a police force in any part of the United Kingdom,
- and any reference to the chief officer of a police force includes the person responsible for the direction of a body mentioned in this subsection.
- (11) For the purposes of this section each of the following must be treated as if it were a police force –
- (a) the Commissioners for Her Majesty’s Revenue and Customs (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to any one of the Commissioners);
 - (b) the Serious Organised Crime Agency (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Director General of the Agency);
 - (c) such other department or body as is prescribed (and regulations may prescribe in relation to the department or body the person to whom a reference to the chief officer is to be taken to be).

[(12) For the purposes of this Part a person acts as the registered person in relation to an application for an enhanced criminal record certificate if the person –

- (a) countersigns the application, or
- (b) transmits the application to the Secretary of State under subsection (2A).]

113BA * * * * * *

113BB * * * * * *

113BC * * * * * *

113C * * * * * *

113CA * * * * * *

113CB * * * * * *

113CC * * * * * *

113CD * * * * * *

113D * * * * * *

113E Criminal record certificates: specified * * adults' lists: urgent cases

(1) * * * * *

(2) * * * * *

(3) Subsection (4) applies to an application under section * * 113B if –

[(a) it is made in a case prescribed under section 113BB(1),]

(b) the registered person requests an urgent preliminary response, and

(c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.

(4) The Secretary of State must notify the registered person either –

(a) that the applicant is not included in a specified adults' list, or

(b) that a criminal record certificate or enhanced criminal record certificate will be issued in due course.

(5) In this section –

“criminal record certificate” has the same meaning as in section 113A;

“enhanced criminal record certificate” has the same meaning as in section 113B;

* * * * *

[(5A) For the purposes of this section each of the following is a specified adults’ list –

- (a) the list kept under section 81 of the Care Standards Act 2000 (c. 14);
- (b) the adults’ barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006 (c. 47);
- (c) the adults’ barred list maintained under article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)).]

114 Criminal record certificates: Crown employment

- (1) The Secretary of State shall issue a criminal record certificate to any individual who –
 - (a) makes an application under this section * * *, and
 - (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.
- (2) An application under this section must be accompanied by a statement by a Minister of the Crown that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant’s suitability for an appointment by or under the Crown.
- (3) Section 113A(3) to (6) shall apply in relation to this section with any necessary modifications.

115 * * * * *

116 Enhanced criminal record certificates: judicial appointments and Crown employment

- (1) The Secretary of State shall issue an enhanced criminal record certificate to any individual who -
 - (a) makes an application under this section * * *, and
 - (b) pays any fee that is payable in relation to the application under regulations made by the Secretary of State.
- (2) An application under this section must be accompanied by a statement by a Minister of the Crown or a person nominated by a Minister of the Crown, that the

certificate is required for the purposes of an exempted question asked in the course of considering the applicant's suitability for -

- (a) a judicial appointment, or
 - (b) an appointment by or under the Crown to a position of such description as may be prescribed.
- (3) Sections 113B(3) to (11) and 113BA, 113BB and 113E shall apply in relation to this section with any necessary modifications.

117 Disputes about accuracy of certificates

- (1) Where an applicant for a certificate under any of sections 112 to 116 believes that the information contained in the certificate is inaccurate he may make an application in writing to the Secretary of State for a new certificate.
- (2) The Secretary of State shall consider any application under this section; and where he is of the opinion that the information in the certificate is inaccurate he shall issue a new certificate.

118 Evidence of identity

- (1) The Secretary of State may refuse to issue a certificate under this Part, or to consider an application under section 117 * *, unless the application is supported by such evidence of identity as he may require.
- (2) In particular, the Secretary of State may refuse to issue a certificate or consider an application unless the applicant -
- (a) has his fingerprints taken at such place and in such manner as may be prescribed, and
 - (b) pays the prescribed fee to such person as may be prescribed.

[(2ZA) For the purpose of applications from persons resident in Jersey, "prescribed" in subsection 2(a) and (b) means prescribed by Order made by the Minister for Home Affairs.]

- (2A) For the purpose of verifying evidence of identity supplied in pursuance of subsection (1) the Secretary of State may obtain such information as he thinks is appropriate from data held -
- (a) by the United Kingdom Passport Agency;
 - (b) by the Driver and Vehicle Licensing Agency;
 - (c) by Driver and Vehicle Licensing Northern Ireland;
 - (d) by the Secretary of State in connection with keeping records of national insurance numbers;
- [(da) by the Jersey Passport Office;
- (db) by a Parish authority or the States of Jersey for the purposes of licensing and registration of motorists and motor vehicles;
 - (dc) by the Social Security Department of the States of Jersey in connection with keeping records of social security numbers;]

- (e) by such other persons or for such purposes as is prescribed.
- (3) [An Order] dealing with the taking of fingerprints may make provision requiring their destruction in specified circumstances and by specified persons.
- (4) [An Order] prescribing a fee for the purposes of subsection (2)(b) shall make provision for a refund in cases of an application under section 117 where a new certificate is issued.

119 Sources of information

- (1) Any person who holds records of convictions or cautions for the use of police forces generally shall make those records available to the Secretary of State for the purpose of enabling him to carry out a relevant function.
 - [(1A)(a) The Secretary of State may require the Independent Safeguarding Authority to make available specified information for the purpose of enabling the Secretary of State to carry out functions under this Part in relation to any application for a certificate.
 - (b) In this section “Independent Safeguarding Authority” has the same meaning as in the Safeguarding Vulnerable Groups Act 2006.]

Sub-paragraph (1A): modified text applicable from 18 March 2010 to the end of the first transitional period⁴

- [(1A) Any person who keeps the list under section 1 of the Protection of Children Act 1999 or under section 81 of the Care Standards Act 2000 or maintains a list under section 2 of the Safeguarding Vulnerable Groups Act 2006 shall make the contents of that list available to the Secretary of State for the purpose of enabling him to carry out his functions under this Part in relation to any application for a certificate.]
- (1B) The Secretary of State may require the chief officer of a police force to make available such information as he may specify for the purpose of determining, in relation to applications under section 113B, whether the police force is a relevant police force.
- (2) Where the chief officer of a police force receives a request under section 113B or 116 he shall comply with it as soon as practicable.
- (3) The Secretary of State shall pay to the appropriate police authority such fee as he thinks appropriate for information provided in accordance with * * * subsection (2) of this section.
- (4) Any person who holds records of fingerprints for the use of police forces generally shall make those records available to the Secretary of State for the purpose of enabling him to carry out his functions under this Part in relation to [any application for a certificate].
- (5) No proceedings shall lie against the Secretary of State by reason of an inaccuracy in the information made available or provided to him in accordance with this section.

- (6) For the purposes of this section references to a police force include any body mentioned in subsections (10)(a) to [(1)] and (11) of section 113B and references to a chief officer must be construed accordingly.
- (7) In the case of such a body the reference in subsection (3) to the appropriate police authority must be construed as a reference to such body as is prescribed.
- (8) In this section a relevant function is a function of the Secretary of State under this Part in relation to any application for a certificate.

119A * * * * *

119B * * * * *

120 Registered persons

- (1) For the purposes of this Part a registered person is a person who is listed in a register to be maintained by the Secretary of State for the purposes of this Part.
- (2) Subject to regulations under section 120ZA * * * the Secretary of State shall include in the register any person who –
 - (a) applies to him in writing to be registered,
 - (b) satisfies the conditions in [subsections (4) and (5)].
 - (c) * * * * *
- [(4) The only person that may apply for registration under this section is the Minister for Home Affairs.]
- (5) [The Minister for Home Affairs when] applying for registration under this section must satisfy the Secretary of State that [he] –
 - (a) is likely to ask exempted questions, or
 - [(b) is likely to act as the registered person in relation to applications under section 113A or 113B at the request of bodies or individuals asking exempted questions.]
- (6) * * * * *
- (7) In this section “exempted question” has the same meaning as in section 113A.

120ZA Regulations about registration

- (1) The Secretary of State may by regulations make further provision about registration.
- (2) Regulations under this section may in particular make provision for –
 - (a) the payment of fees,
 - (b) the information to be included in the register,
 - (c) the registration of any person to be subject to conditions,

- (d) the nomination by [the Minister for Home Affairs] of the individuals authorised to act for * * * him in relation to the countersigning of applications under this Part [or the transmitting of applications under section 113A(2A) or 113B(2A)], and
 - (e) the refusal by the Secretary of State, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept the nomination of a person as so authorised.
- (3) The provision which may be made by virtue of subsection (2)(c) includes provision –
- (a) for the registration * * * of any person to be subject to prescribed conditions or, if the regulations so provide, such conditions as the Secretary of State thinks fit, and
 - (b) for the Secretary of State to vary or revoke those conditions.
- (4) The conditions imposed by virtue of subsection (2)(c) may in particular include conditions –
- (a) requiring a registered person, before [acting as the registered person in relation to] an application at an individual’s request, to verify the identity of that individual in the prescribed manner,
 - (b) requiring an application under section 113A or 113B to be transmitted by electronic means to the Secretary of State by the [person who acts as the registered person in relation to the application]. * *
 - (c) * * * * *

120ZB *	*	*	*	*	*	*
120A *	*	*	*	*	*	*
120AA *	*	*	*	*	*	*
120AB *	*	*	*	*	*	*
120B *	*	*	*	*	*	*
121 *	*	*	*	*	*	*
122 *	*	*	*	*	*	*

122A Delegation of functions of Secretary of State

- (1) The Secretary of State may, to such extent and subject to such conditions as he thinks fit, delegate any relevant function of his under this Part to such person as he may determine.
- (2) A function is relevant for the purposes of subsection (1) if it does not consist of a power [to make regulations].
- (3) A delegation under subsection (1) may be varied or revoked at any time.

122B * * * * *

123 Offences: falsification, &c.

- (1) A person commits an offence if, with intent to deceive, he –
 - (a) makes a false certificate under this Part,
 - (b) alters a certificate under this Part,
 - (c) uses a certificate under this Part which relates to another person in a way which suggests that it relates to himself, or
 - (d) allows a certificate under this Part which relates to him to be used by another person in a way which suggests that it relates to that other person.
- (2) A person commits an offence if he knowingly makes a false statement for the purpose of obtaining, or enabling another person to obtain, a certificate under this Part.
- (3) A person who is guilty of an offence under this section shall be liable on * * conviction to imprisonment for a term not exceeding six months or to a fine not exceeding [level 4] on the standard scale, or to both.

124 Offences: disclosure

- (1) A member, officer or employee of a body registered under section 120 commits an offence if he discloses information provided following an application under section 113A or 113B unless he discloses it, in the course of his duties –
 - (a) to another member, officer or employee of the registered body,
 - (b) to a member, officer or employee of a body at the request of which the registered body [acted as the registered person in relation to] the application, or
 - (c) to an individual at whose request the registered body acted as the registered person in relation to the relevant application.
- (2) Where information is provided under section 113A or 113B following an application [in relation to which the person who acted as the registered person did so] at the request of a body which is not registered under section 120, a member, officer or employee of the body commits an offence if he discloses the information unless he discloses it, in the course of his duties, to another member, officer or employee of that body.

- (3) Where information is provided under section 113A or 113B following an application [in relation to which the person who acted as the registered person did so at the request of an individual] –
- (a) the individual commits an offence if he discloses the information unless he discloses it to an employee of his for the purpose of the employee's duties, and
 - (b) an employee of the individual commits an offence if he discloses the information unless he discloses it, in the course of his duties, to another employee of the individual.
- (4) Where information provided under section 113A or 113B is disclosed to a person and the disclosure –
- (a) is an offence under this section, or
 - (b) would be an offence under this section but for subsection (5) or (6)(a), (d), (e) or (f),
- the person to whom the information is disclosed commits an offence (subject to subsections (5) and (6)) if he discloses it to any other person.
- (5) Subsections (1) to (4) do not apply to a disclosure of information provided in accordance with section 113B(5) which is made with the written consent of the chief officer who provided the information.
- (6) Subsections (1) to (4) do not apply to a disclosure of information contained in a certificate under section 113A or 113B which is made –
- (a) with the written consent of the applicant for the certificate, or
 - (b) to a government department, or
 - (c) to a person appointed to an office by virtue of any enactment, or
 - (d) in accordance with an obligation to provide information under or by virtue of any enactment, or
 - (e) for the purposes of answering an exempted question (within the meaning of section 113A) of a kind specified in regulations made by the Secretary of State, or
 - (f) for some other purpose specified in regulations made by the Secretary of State.
- (7) A person who is guilty of an offence under this section shall be liable on * * conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale, or to both.

124A Further offences: disclosure of information obtained in connection with delegated function

- (1) Any person who is engaged in the discharge of functions conferred by this Part on the Secretary of State commits an offence if he discloses information which has been obtained by him in connection with those functions and which relates to a particular person unless he discloses the information, in the course of his duties –
- (a) to another person engaged in the discharge of those functions,

- (b) to the chief officer of a police force in connection with a request under this Part to provide information to the Secretary of State, or
- (c) to an applicant or registered person who is entitled under this Part to the information disclosed to him.
- (2) Where information is disclosed to a person and the disclosure –
- (a) is an offence under subsection (1), or
- (b) would be an offence under subsection (1) but for subsection (3)(a), (d) or (e), the person to whom the information is disclosed commits an offence if he discloses it to any other person.
- (3) Subsection (1) does not apply to a disclosure of information which is made –
- (a) with the written consent of the person to whom the information relates,
- (b) to a government department,
- (c) to a person appointed to an office by virtue of any enactment,
- (d) in accordance with an obligation to provide information under or by virtue of any enactment, or
- (e) for some other purpose specified in regulations made by the Secretary of State.
- (4) A person who is guilty of an offence under this section shall be liable on * * conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale, or to both.
- (5) * * * * *
- (6) For the purposes of this section the reference to a police force includes any body mentioned in subsections (10)(a) to [(1)] and (11) of section 113B and the reference to a chief officer must be construed accordingly.

124B * * * * *

[125 Regulations and orders

- (1) Subject to section 118(2ZA), anything authorised or required by any provision of this Part to be prescribed shall be prescribed by regulations made by the Secretary of State.
- (2) Regulations under this Part may make different provision for different cases.]

125A * * * * *

[125B Form of Applications

- (1) The Secretary of State may determine the form, manner and contents of an application for the purposes of any provision of this Part.
- (2) A determination may, in particular, impose requirements about the form or manner in which an electronic application is to be signed or countersigned.]

126 Interpretation of Part V

(1) In this Part -

“caution” means a caution given to a person [in England and Wales, Northern Ireland, Guernsey or the Isle of Man] in respect of an offence which, at the time when the caution is given, he has admitted;

“certificate” means any one or more documents issued in response to a particular application;

“chief officer” means –

- (i) a chief officer of police of a police force in England and Wales,
- (ii) a chief constable of a police force in Scotland, and
- (iii) the Chief Constable of the Police Service of Northern Ireland, [and
- (iv) the chief officer of the salaried Police Force of the Island of Guernsey, and
- (v) the chief officer of the States of Jersey Police Force, and
- (vi) the Chief Constable of the Isle of Man Constabulary;]

“government department” includes a Northern Ireland department [and any department of the States of Jersey];

[“Minister for Home Affairs” means the Minister for Home Affairs for Jersey;]

* * * * *

“police authority” means –

- (i) a police authority for an area in Great Britain or a joint police board (within the meaning of the Police (Scotland) Act 1967), and
- (ii) the Northern Ireland Policing Board;

“police force” means –

- (i) a police force in Great Britain, and
- (ii) the Police Service of Northern Ireland and the Police Service of Northern Ireland Reserve; [and
- (iii) the salaried Police Force of the Island of Guernsey, and
- (iv) the States of Jersey Police Force, and
- (v) the Isle of Man Constabulary;]

“prescribed” shall be construed in accordance with section 125(1);

[“standard scale” means the standard scale for the time being in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993.]

[(2) Subject to subsection (2A), a reference to an Act, or to a provision of an Act, shall be construed as a reference to that Act or provision, as the case may be, as it has effect in England and Wales from time to time.

(2A) A reference to a provision of this Act extended to Jersey by Order in Council shall be construed as a reference to that provision as it has effect in Jersey.]

[(3) The Subordinate Legislation (Jersey) Law 1960 applies to Orders made by the Minister for Home Affairs under this Part of this Act as if this Act were an enactment for the purposes of that Law.]

127 Saving: disclosure of information and records

Nothing in sections 112 to 119 shall be taken to prejudice any power which exists apart from this Act to disclose information or to make records available.

PARTS VI TO VII

* * * * *

SCHEDULES

* * * * *

ELIZABETH II**SAFEGUARDING VULNERABLE GROUPS ACT 2006**

2006 CHAPTER 47

AN ACT to make provision in connection with the protection of children and vulnerable adults.

[8th November 2006]

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 follows –

1–27 * * * * *

*Exceptions***28 Independent monitor**

[After section 119 of the Police Act 1997 (c. 50) (sources of information)] insert –

“119B Independent monitor

- (1) There is to be an independent monitor for the purposes of this Part.
- (2) The independent monitor is a person appointed by the Secretary of State –
 - (a) for such period, not exceeding three years, as the Secretary of State decides;
 - (b) on such terms as the Secretary of State decides.
- (3) A person may be appointed for a further period or periods.

- (4) The Secretary of State may terminate the appointment of the independent monitor before the end of the period mentioned in subsection (2)(a) by giving the monitor notice of the termination not less than three months before it is to take effect.
- (5) The independent monitor must review –
 - (a) all cases in which information is disclosed to a registered person in pursuance of section 113B(6)(b);
 - (b) a sample of cases in which a certificate issued under section 113B has included information in pursuance of subsection (4)(b) of that section;
 - (c) a sample of cases in which the chief officer of a police force has decided that information must not be included in a certificate or report in pursuance of section 113B(4)(b) or disclosed in pursuance of section 113B(5)(c) and (6)(b);
 - (d) * * * * *
 - (e) * * * * *
- (6) The purpose of a review under subsection (5) is to ensure compliance with Article 8 of the European Convention of Human Rights.
- (7) The independent monitor must in relation to each year make a report to the Secretary of State about the performance of police forces in exercising their functions under this Part.
- (8) The independent monitor may make recommendations to the Secretary of State as to –
 - (a) any guidance issued by the Secretary of State or which the monitor thinks it would be appropriate for the Secretary of State to issue;
 - (b) any changes to any enactment which the monitor thinks may be appropriate.
- (9) The chief officer of a police force must provide to the independent monitor such information as the monitor reasonably requires in connection with the exercise of his functions under this section.”

29 * * * * *

30–56 * * * * *

General

57–62 * * * * *

63 Amendments and repeals

- (1) Schedule 9 contains amendments.

(2) Schedule 10 contains repeals.

64–67 * * * * *

SCHEDULES 1 – 8

* * * * *

SCHEDULE 9

Section 63

AMENDMENTS

PART 1

* * * * *

PART 2

OTHER AMENDMENTS

11–13* * * * *

Police Act 1997 (c. 50)

14(1) The Police Act 1997 is amended as follows.

(2) In section 113A (criminal record certificates) after subsection (6) insert –

“(7) The Secretary of State may by order amend the definitions of “central records” and “relevant matter” in subsection (6).

(8) * * * * *

(3) In section 113B (enhanced criminal record certificates), in subsection (2)(b) after “required” insert “for the purposes of an exempted question asked”.

(4) After section 113B insert –

“113BA Suitability information relating to children

(1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.

(2) Suitability information relating to children is –

(a) whether the applicant is barred from regulated activity relating to children;

- (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which he became barred;
- (c) whether the applicant is subject to monitoring in relation to regulated activity relating to children;
- (d) whether the [Independent Safeguarding Authority] is considering whether to include the applicant in the children's barred list in pursuance of paragraph 3 or 5 of Schedule 3 to the 2006 Act.
- [(e) whether the applicant is subject to a direction under section 128 of the Education and Skills Act 2008 (c. 25) (prohibition on participation in management of independent educational institution in England) or section 167A of the Education Act 2002 (c. 32) (prohibition on participation in management of independent school in Wales).]

Sub-paragraphs (2)–(2C): modified text applicable from 18 March 2010 to the end of the first transitional period⁵

- [(2) Suitability information relating to children is whether the applicant –
 - (a) is provisionally included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14);
 - (b) is included in the list kept under section 1 of the Protection of Children Act 1999 otherwise than provisionally and disqualified from working with children for the purposes of section 35 of the Criminal Justice and Court Services Act 2000 (c. 43) or is barred from regulated activity relating to children;
 - (c) is subject to a direction made under section 142 of the Education Act 2002 (c. 32).
- (2A) *If the applicant is provisionally included in the list kept under section 1 of the Protection of Children Act 1999, the suitability information includes the fact that the applicant must not be employed or, as the case may be, must cease to be employed in a child care position with a child care organisation in accordance with section 7 of that Act.*
- (2B) *If the applicant is subject to a direction made under section 142 of the Education Act 2002, the suitability information includes –*
 - (a) *details of any prohibition or restriction on the applicant's employment;*
 - (b) *the grounds on which the direction was made, and, where the grounds are misconduct, details of the misconduct.*
- (2C) In subsection (2A), “child care position” and “child care organisation” have the same meanings as in section 12 of the Protection of Children Act 1999.]

Sub-paragraphs (2)–(2C): modified text applicable from 18 March 2010 to the end of the second transitional period⁶

- [(2) Suitability information relating to children is –
 - (a) *whether the applicant is included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14);*

- (b) *whether the applicant is subject to a direction made under section 142 of the Education Act 2002 (c. 32);*
 - (c) *whether the applicant is barred from regulated activity relating to children;*
 - (d) *if the applicant is barred from such regulated activity, such details as are prescribed of the circumstances in which he became barred;*
 - (e) *whether the applicant is subject to monitoring in relation to regulated activity relating to children;*
 - (f) *whether the Independent Safeguarding Authority is considering whether to include the applicant in the children's barred list in pursuance of paragraph 3 or 5 of Schedule 3 to the 2006 Act.*
- (2A) *If the applicant is included in the list kept under section 1 of the Protection of Children Act 1999, the suitability information includes whether the inclusion is provisional and –*
- (a) *if it is provisional, the fact that the applicant must not be employed or, as the case may be, must cease to be employed in a child care position with a child care organisation in accordance with section 7 of that Act;*
 - (b) *if it is not provisional, the fact that the applicant is disqualified from working with children for the purposes of section 35 of the Criminal Justice and Court Services Act 2000 (c. 43).*
- (2B) *If the applicant is subject to a direction made under section 142 of the Education Act 2002, the suitability information includes –*
- (a) *details of any prohibition or restriction on the applicant's employment;*
 - (b) *the grounds on which the direction was made, and, where the grounds are misconduct, details of the misconduct.*
- (2C) *In subsection (2A), "child care position" and "child care organisation" have the same meanings as in section 12 of the Protection of Children Act 1999.]*
- (3) Expressions used in this section and in the 2006 Act have the same meaning in this section as in that Act, except that "prescribed" must be construed in accordance with section 125 of this Act.
- (4) "The 2006 Act" means the Safeguarding Vulnerable Groups Act 2006.

113BB Suitability information relating to vulnerable adults

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to vulnerable adults.
- (2) Suitability information relating to vulnerable adults is –
 - (a) whether the applicant is barred from regulated activity relating to vulnerable adults;

- (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which he became barred;
- (c) whether the applicant is subject to monitoring in relation to regulated activity relating to vulnerable adults;
- (d) whether the [Independent Safeguarding Authority] is considering whether to include the applicant in the adults' barred list in pursuance of paragraph 9 or 11 of Schedule 3 to the 2006 Act.

Sub-paragraphs (2)–(2B): modified text applicable from 18 March 2010 to the end of the first transitional period⁷

[(2) Suitability information relating to vulnerable adults is whether the applicant –

- (a) is provisionally included in the list kept under section 81 of the Care Standards Act 2000 (c. 14);*
- (b) is included in the list kept under section 81 of the Care Standards Act 2000 otherwise than provisionally and prohibited from working in a care position or is barred from regulated activity relating to vulnerable adults.*

(2A) If the applicant is provisionally included in the list kept under section 81 of the Care Standards Act 2000, the suitability information includes the fact that the applicant must not be employed or, as the case may be, must cease to be employed in a care position.

(2B) In subsection (2), “care position” has the same meaning as in Part 7 of the Care Standards Act 2000.]

Sub-paragraphs (2)–(2B): modified text applicable from 18 March 2010 to the end of the second transitional period⁸

[(2) Suitability information relating to vulnerable adults is –

- (a) whether the applicant is included in the list kept under section 81 of the Care Standards Act 2000 (c. 14);*
- (b) whether the applicant is barred from regulated activity relating to vulnerable adults;*
- (c) if the applicant is barred from such regulated activity, such details as are prescribed of the circumstances in which he became barred;*
- (d) whether the applicant is subject to monitoring in relation to regulated activity relating to vulnerable adults;*
- (e) whether the Independent Safeguarding Authority is considering whether to include the applicant in the adults' barred list in pursuance of paragraph 9 or 11 of Schedule 3 to the 2006 Act.*

(2A) If the applicant is included in the list kept under section 81 of the Care Standards Act 2000, the suitability information includes whether the inclusion is provisional and –

- (a) *if it is provisional, the fact that the applicant must not be employed or, as the case may be, must cease to be employed in a care position;*
 - (b) *if it is not provisional, the fact that the applicant is prohibited from working in a care position.*
- (2B) *In subsection (2A), “care position” has the same meaning as in Part 7 of the Care Standards Act 2000.]*
- (3) Expressions used in this section and in the 2006 Act have the same meaning in this section as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.
 - (4) “The 2006 Act” means the Safeguarding Vulnerable Groups Act 2006.

113BC Suitability information: power to amend

- (1) The Secretary of State may by order made by statutory instrument –
 - (a) amend section 113BA for the purpose of altering the meaning of suitability information relating to children;
 - (b) amend section 113BB for the purpose of altering the meaning of suitability information relating to vulnerable adults.
- (2) * * * * *
- (5) In section 114 (criminal record certificates: Crown employment), in subsection (3), for “Sections 113A(3) to (6) and 113C to 113F” substitute “Section 113A(3) to (6)”.
- (6) In section 116 (enhanced criminal record certificates: judicial appointments and Crown employment), in subsection (3), for “113C to 113F” substitute “113BA to 113BC”.

Sub-paragraph (6): modified text applicable from 18 March 2010 to the end of the second transitional period⁹

- [(6) *In section 116 (enhanced criminal record certificates: judicial appointments and Crown employment), in subsection (3), for “113C to 113F” substitute “113BA, 113BB and 113E”.]*
- (7) In section 119 (sources of information) –
 - (a) in subsection (1), for the words from “his functions” to the end substitute “a relevant function”;
 - (b) before subsection (2) insert –
 - “(1B) The Secretary of State may require the chief officer of a police force to make available such information as he may specify for the purpose of determining, in relation to applications under section 113B, whether the police force is a relevant police force.”;
 - (c) * * * * *

(d) after subsection (7) insert –

[“(8) In this section a relevant function is a function of the Secretary of State under this Part in relation to any application for a certificate.”]

15–16*

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SCHEDULE 10

Section 63

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
* * * *	* * * * *
Police Act 1997 (c. 50)	Sections 113C to 113F
* * * *	* * * *



ARMED FORCES ACT 2006

2006 CHAPTER 52

CONTENTS

PARTS 1 TO 18

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SCHEDULE 16 — Minor and consequential amendments

SCHEDULE 17 — * * * * *



ARMED FORCES ACT 2006

2006 CHAPTER 52

AN ACT to make provision with respect to the armed forces; and for connected purposes.

[8th November 2006]

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 follows –

PARTS 1 TO 18

* * * * *

PART 19

SUPPLEMENTARY

CHAPTERS 1 TO 3

* * * * *

CHAPTER 4

FINAL PROVISIONS

378 Minor and consequential amendments and repeals

(1) Schedule 16 (minor and consequential amendments) has effect.

(2) * * * * *

379–386 * * * * *

SCHEDULES 1–15

* * * * *

SCHEDULE 16

MINOR AND CONSEQUENTIAL AMENDMENTS

1–145 * * * * *

Police Act 1997 (c. 50)

146–148 * * * * *

149 In section 113B(10) of that Act (enhanced criminal record certificates: meaning of “police force”), for paragraphs (a) and (b) substitute –

“**(a)** the Royal Navy Police;”.

150–246 * * * * *

SCHEDULE 17

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- 1 *chapter 15.360*
- 2 *chapter 08.360*
- 3 *chapter 15.720*
- 4 *“the first transitional period” has the same meaning as in article 1(2) of the Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009 [S.I.2009/2610]*
- 5 *“the first transitional period” has the same meaning as in article 1(2) of the Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009 [S.I.2009/2610]*
- 6 *“the second transitional period” has the same meaning as in article 1(2) of the Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009 [S.I.2009/2610]*
- 7 *“the first transitional period” has the same meaning as in article 1(2) of the Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009 [S.I.2009/2610]*
- 8 *“the second transitional period” has the same meaning as in article 1(2) of the Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009 [S.I.2009/2610]*
- 9 *“the second transitional period” has the same meaning as in article 1(2) of the Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009 [S.I.2009/2610]*