

Draft Order laid before the Assembly under section 126A(8) of the Police Act 1997 for approval

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2014 No.

CRIMINAL LAW

The Police Act 1997 (Criminal Record Certificates: Relevant Matters) (Amendment) Order (Northern Ireland) 2014

Made - - - - xx April 2014

Coming into operation 14th April 2014

The Department of Justice makes the following Order in exercise of the powers conferred by section 113A(7)(1) of the Police Act 1997 as modified by section 126A(1) and (8)(2) of that Act.

Citation, commencement and interpretation

1. This Order may be cited as the Police Act 1997 (Criminal Record Certificates: Relevant Matters) (Amendment) Order (Northern Ireland) 2014, and shall come into operation on 14th April 2014.

Amendment to the Police Act 1997

2. The Police Act 1997 is amended as follows.

3. In section 113A(6), for the definition of “relevant matter”, substitute—

““relevant matter”, in this section as it has effect in Northern Ireland, means—

(a) in relation to a person who has one conviction only—

(i) a conviction of an offence within subsection (6D);

(ii) a conviction in respect of which a sentence of imprisonment, a sentence of service detention or custodial order was imposed; or

(iii) a current conviction;

(b) in relation to any other person, any conviction;

(c) a caution, restorative caution, diversionary youth conference or informed warning given in respect of an offence within subsection (6D);

(1) [1997 c.50](#): section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act (2005 c.15); sections 113A(7) and (8) were inserted by paragraph 14(2) of Schedule 9 to Safeguarding Vulnerable Groups Act 2006 (c.47).
(2) Section 126A was inserted by article 12 and paragraph 38 of Schedule 14 to [S.I. 2010/976](#) and transfers the section 113A(7) powers of the Secretary of State to the Department of Justice .

(d) a current caution, restorative caution, diversionary youth conference or informed warning.”

4. In section 113A(3), before subsection (7) insert–

“(6D) The offences referred to in paragraphs (a)(i) and (c) of the definition of “relevant matter” in subsection (6), as it has effect in Northern Ireland, are as follows–

- (a) The following offences–
- (i) Abducting girl under 18 with intention of marriage;
 - (ii) Abducting girl under 18;
 - (iii) Affray;
 - (iv) Breach of the peace;
 - (v) False imprisonment;
 - (vi) Going armed so as to terrify the public;
 - (vii) Indecency – outraging public decency;
 - (viii) Kidnapping;
 - (ix) Manslaughter;
 - (x) Murder;
 - (xi) Publishing obscene libel;
 - (xii) Publishing/exhibiting/selling indecent/obscene things;
 - (xiii) Rape;
 - (xiv) Riot;
 - (xv) Rout (incipient riot); and
 - (xvi) Unlawful assembly.
- (b) an offence under section 1 of the Unlawful Drilling Act 1819;
- (c) an offence under section 10 or 11 of the Slave Trade Act 1824;
- (d) an offence under section 2 or 3 of the Tumultuous Risings (Ireland) Act 1831;
- (e) an offence under section 35 of the Malicious Damage Act 1861;
- (f) an offence under section 32, 33, 34, 58, 59 or 64 of the Offences Against the Person Act 1861;
- (g) an offence under section 26 of the Criminal Justice Act (Northern Ireland) 1945;
- (h) an offence under section 2 of the Nuclear Installations Act 1965;
- (i) an offence under section 13, 13A or 13B of the Criminal Justice Act (Northern Ireland) 1966(4);
- (j) an offence under section 5(1) of the Criminal Law Act (NI) 1967;
- (k) an offence under section 25 or 30 of the Children and Young Persons Act (Northern Ireland) 1968;
- (l) an offence under section 7(2)(a), 52, 58(2)(a), 58(2)(b), 63(b), 67 or 67 (1A) of the Medicines Act 1968(5);
- (m) an offence under section 1, 2 or 3 of the Protection of Persons and Property Act (Northern Ireland) 1969;

(3) Subsections 113A(6A) to (6C) of the Police Act 1997 extend to Scotland only.

(4) 1966 c.20 (N.I.) Sections 13A and 13B have been inserted by section 60(4) of the Coroners and Justice Act 2009 (c.25).

(5) 1968 c.67 Section 67(1A) has been inserted by section 63(7) of the Health and Social Care Act 2001 (c.15).

- (n) an offence under section 7 of the Public Order Amendment Act (Northern Ireland) 1970;
- (o) an offence under section 4(2), 5(2), 5(3), 6(2), 8, 9, 11, 12, 13, 18, 19, 20 or 23 of the Misuse of Drugs Act 1971;
- (p) an offence under section 1 of the Biological Weapons Act 1974;
- (q) an offence under section 2 of the Criminal Jurisdiction Act 1975;
- (r) an offence under Article 5 of the Poisons (Northern Ireland) Order 1976;
- (s) an offence under Article 4 or 5 of the Criminal Damage (Northern Ireland) Order 1977;
- (t) an offence under Article 19 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977;
- (u) an offence under Article 3 of the Criminal Law (Amendment) (Northern Ireland) Order 1977;
- (v) an offence under section 50 of the Customs and Excise Management Act 1979;
- (w) an offence under section 6(2) or section 7(2) of the Aviation Security Act 1982;
- (x) an offence under Article 5, 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983(6);
- (y) an offence under sections 1A to 1D or 2 of the Nuclear Material (Offences) Act 1983(7);
- (z) an offence under section 38 of the Public Order Act 1986;
- (aa) an offence under Article 11, 28, 29, 31, 58, 58ZA or 59 of the Adoption (Northern Ireland) Order 1987(8);
- (bb) an offence under Article 9, 10, 11, 12, 13, 18(3), 22 or 23 of the Public Order (Northern Ireland) Order 1987;
- (cc) an offence under section 139, 139A, or 141 of the Criminal Justice Act 1988(9);
- (dd) an offence under Article 3, 4 or 5 of the Crossbows (Northern Ireland) Order 1988;
- (ee) an offence under section 12, 18 or 19 of the Criminal Justice (International Cooperation) Act 1990;
- (ff) an offence under Article 68 or 132 of the Children (Northern Ireland) Order 1995;
- (gg) an offence under Article 11A or 12B of the Road Traffic (Northern Ireland) Order 1995(10);
- (hh) an offence under Article 53 or 54 of the Criminal Justice (Northern Ireland) Order 1996;
- (ii) an offence under section 2 or 11 of the Chemical Weapons Act 1996;
- (jj) an offence specified in the Schedule to the Disqualification for Caring for Children Regulations (Northern Ireland) 1996;
- (kk) an offence under section 1 or 2 of the Knives Act 1997;

(6) S.I. 1983/1120 (N.I. 3). Article 9A has been inserted by section 6(1) of the Criminal Justice (Terrorism and Conspiracy) Act 1998 (c. 40) and has been amended by section 72(2)(a) of the Coroners and Justice Act 2009 (c. 25).

(7) 1983 c. 18. Sections 1A to 1D have been inserted by paragraph 3 of Schedule 17(1) to the Criminal Justice and Immigration Act 2008 (c. 18).

(8) S.I. 1987/2203 (N.I. 22). Article 58ZA has been inserted by Article 12 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 (c. 11 (N.I.)).

(9) 1988 c. 33. Section 139A has been inserted by section 4(1) of the Offensive Weapons Act 1996 (c. 26).

(10) S.I. 1995/2994 (N.I. 18). Article 11A has been inserted by Article 52(1) of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)). Article 12B has been inserted by Article 53(1) of that Order.

- (ll) an offence under Article 4, 5(6), 6 or 7(5) of the Protection from Harassment (Northern Ireland) Order 1997;
- (mm) an offence under section 2 of the Landmines Act 1998;
- (nn) an offence under section 35 of the Criminal Justice and Courts Services Act 2000;
- (oo) an offence under section 11, 12, 15, 16, 17, 18, 38B, 39, 58, 60 or paragraph 37 of Schedule 4 to the Terrorism Act 2000;
- (pp) an offence under section 52, 54, 67, 79, 80 or 114 of the Anti-terrorism, Crime and Security Act 2001;
- (qq) an offence under section 58 or 59 of the International Criminal Court Act 2001;
- (rr) an offence under Article 17 of the Criminal Injuries Compensation (Northern Ireland) Order 2002;
- (ss) an offence under section 327, 328, 329, 330, 331, 332, 333A or 342 of the Proceeds of Crime Act 2002;
- (tt) an offence under Article 12, 15(2)(a)-(e), 24 to 28 or 42 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;
- (uu) an offence under Article 30 or 46 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;
- (vv) an offence stated by a court to be aggravated by hostility under Article 2 of the Criminal Justice (No 2) (Northern Ireland) Order 2004;
- (ww) an offence under Article 3, 24, 37, 39, 40, 41, 42, 45, 61, 62, 63 or 67 of the Firearms (Northern Ireland) Order 2004;
- (xx) an offence under section 1 or 2 of the Terrorism Act 2006;
- (yy) an offence under paragraph 1 of Schedule 1 to the Violent Crime Reduction Act 2006;
- (zz) an offence under section 47 of the Wireless Telegraphy Act 2006;
- (aaa) an offence under Article 11, 13 or 23 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(11);
- (bbb) an offence under section 27, paragraph 8 of Schedule 3 or paragraph 12 of Schedule 4 to the Justice and Security (Northern Ireland) Act 2007;
- (ccc) an offence under Schedule 1 or Schedule 2 of the Criminal Justice (Northern Ireland) Order 2008(12);
- (ddd) an offence under Article 68, 69 or 73 of the Sexual Offences (Northern Ireland) Order 2008;
- (eee) an offence under section 71 of the Coroners and Justice Act 2009;
- (fff) an offence under Article 137 or 138 of the Air Navigation Order 2009;

(11) [S.I. 2007/1351 \(N.I. 11\)](#). Articles 11, 13 and 23 have been revoked by paragraph 1 of Schedule 10(5) to the Protection of Freedoms Act 2012 (c. 9). The repeal is effective from 10 September 2012 as [S.I. 2012/2234](#) immediately after the coming into operation of [S.R. 2012/320](#).

(12) [S.I. 2008/1216 \(N.I. 1\)](#). Schedule 1 and Schedule 2 have been amended by paragraph 35(2) and (3) of Schedule 1 to the Sexual Offences (Northern Ireland) Order 2008 ([S.I. 2008/1769 \(N.I. 2\)](#)), section 139(2) to (4) and (6) of the Coroners and Justice Act 2009 (c. 25), section 57(2) of the Justice Act (Northern Ireland) 2011 (c. 24 (N.I.)) and section 6(3)(b) of the Criminal Justice Act (Northern Ireland) 2013 (c. 7 (N.I.)).

- (ggg) an offence specified in the Schedule to the Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2009(13);
 - (hhh) an offence under section 2 of the Cluster Munitions (Prohibitions) Act 2010;
 - (iii) an offence under section 93 of the Justice Act (Northern Ireland) 2011;
 - (jjj) an offence under regulation 255 of the Human Medicines Regulations 2012;
 - (kkk) an offence which has been superseded (directly or indirectly) by an offence within paragraphs (a) to (jjj);
 - (III) an offence of –
 - (i) attempting or conspiring to commit any offence falling within paragraphs (a) to (kkk), or inciting or aiding, abetting, counselling or procuring the commission of any such offence, or
 - (ii) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or committing serious crime) committed in relation to any such offence;
 - (mmm) an offence under the law of England, Scotland or Wales or any territory outside the United Kingdom which corresponds to an offence under the law of Northern Ireland within any of the paragraphs (a) to (III);
 - (nnn) an offence under section 42 of the Armed Forces Act 2006 in relation to which the corresponding offence under the law of Northern Ireland (within the meaning of that section) is an offence corresponding with any of the paragraphs (a) to (III); and
 - (ooo) an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 of which the corresponding civil offence (within the meaning of those Acts) is an offence within any of the paragraphs (a) to (III).
- (6E) For the purposes of the definition of “relevant matter” as it has effect in Northern Ireland–
- (a) “conviction” has the same meaning as in the Rehabilitation of Offenders (Northern Ireland) Order 1978 and includes a spent conviction within the meaning of that Order;
 - (b) a person’s conviction is a current conviction if–
 - (i) the person was aged 18 or over on the date of the conviction and that date fell within the 11 year period ending with the day on which the certificate is issued, or
 - (ii) the person was aged 18 or under on the date of conviction and that date fell within the period of 5 years and 6 months ending with the day on which the certificate is issued;
 - (c) a caution or restorative caution given to a person is a current caution or restorative caution if–
 - (i) the person was aged 18 or over on the date it was given and that date fell within the 6 year period ending with the day on which the certificate is issued, or
 - (ii) the person was aged under 18 on the day it was given and that date fell within the 2 year period ending with the day on which the certificate is issued;

(13) [S.R. 2009/39](#). The Schedule to these Regulations has been amended by the Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2012 ([S.R. 2012/319](#)).

- (d) a diversionary youth conference given to a person is a current diversionary youth conference if the person was aged under 18 on the date it was given and that date fell within the 2 year period ending with the day on which the certificate is issued;
- (e) an informed warning given to a person is a current informed warning if the date on which it was given fell within the 1 year period ending with the day on which the certificate is issued;
- (f) “sentence of imprisonment”, “sentence of service detention” and “custodial order” have the same meaning as in Articles 2 and 6 of the Rehabilitation of Offenders (Northern Ireland) Order 1978.”.

Sealed with the Official Seal of the Department of Justice on ** April 2014.

Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the definition of “relevant matter” in the Police Act 1997. The definition of “relevant matter” sets out what is disclosed by AccessNI in response to an application for a criminal record certificate or an enhanced criminal record certificate. The Order provides for the introduction of a scheme to filter out certain convictions which are both old and minor and certain disposals from disclosure on a criminal record certificate or an enhanced criminal record certificate.

This Order comes into operation on 14th April 2014.