SCOTTISH STATUTORY INSTRUMENTS

2002 No. 23

POLICE

The Police Act 1997 (Criminal Records) (Registration) (Scotland) Regulations 2002

Made - - - -	*23rd January 2002*
Laid before the Scottish Parliament - - - -	*28th January 2002*
Coming into force - -	*18th February 2002*

The Scottish Ministers, in exercise of the powers conferred by section 120(3) of the Police Act 1997(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police Act 1997 (Criminal Records) (Registration) (Scotland) Regulations 2002 and shall come into force on 18th February 2002.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"the 1997 Act" means the Police Act 1997;

"the register" means the register maintained by the Scottish Ministers under section 120(1) of the 1997 Act for the purposes of Part V of that Act;

"mental disorder" means mental illness (including personality disorder) or mental handicap however caused or manifested.

(2) A requirement in these Regulations that any notification or representations should be "in writing" is satisfied where (apart from the usual meaning of that expression) the text of it–

(a) is transmitted by electronic means;

(b) is received in legible form; and

(c) is capable of being used for subsequent reference.

(**1**) 1997 c. 50. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

The register

3.—(1) The information to be included in the register in respect of a registered person shall be–

(a) the name and address of the person and any telephone or facsimile number or any number or address used for the purpose of electronic communications which has been notified by that person to the Scottish Ministers;

(b) the date on which the name of the person was first listed in the register;

(c) the number assigned to the person on being so listed;

(d) the nature and purpose of the exempted questions, if any, that the person is likely to ask; and

(e) where the person is a body corporate or unincorporate–

(i) whether the body is likely to countersign applications under section 113 (criminal record certificates) or 115 (enhanced criminal record certificates) of the 1997 Act(**2**) at the request of bodies or individuals asking exempted questions and, if so, the nature and purpose of those questions; and

(ii) the name of any individual who will countersign applications under section 113 or 115 of the 1997 Act on behalf of the body, together with a specimen of the signature of that individual.

(2) In paragraph (1), any reference to the address of a registered person is a reference to the address of the principal place of business of that person, subject to the requirement that where that person's principal place of business is not within Scotland, the address of the principal place of business in Scotland shall also be included in the register.

(3) A registered person shall notify the Scottish Ministers in writing, as soon as is reasonably practicable, of the details of any alteration to the information that has been supplied by that person for the purposes of paragraph (1)(a), (d) and (e).

Removal from the register

4.—(1) Subject to paragraphs (2) to (5), the Scottish Ministers may remove from the register any person who is, in the opinion of the Scottish Ministers, no longer likely to wish to countersign applications under section 113 or 115 of the 1997 Act.

(2) Before removing a person from the register, the Scottish Ministers shall notify that person in writing that they are of that opinion and the reasons for that opinion and shall inform that person of the right to make representations under paragraph (3).

(3) A person who has been notified in accordance with paragraph (2) may, within 28 days of the service of such notice, make representations in writing to the Scottish Ministers as to why that person should not be removed from the register and the Scottish Ministers shall consider any such representations.

(4) After considering such representations, the Scottish Ministers shall inform the registered person–

(a) that they are of the opinion that that person is unlikely to wish to countersign applications under section 113 or 115 of the 1997 Act and the reasons for that opinion and that the person will be removed from the register at the end of a further period of 28 days; or

(b) that they do not propose to take any further action under this regulation.

(5) If no representations are received within the period mentioned in paragraph (3), the Scottish Ministers may remove the person from the register at the end of that period.

(**2**) Sections 113 and 115 were amended by sections 90 and 102 of the Care Standards Act 2000 (c. 14).