EXPLANATORY MEMORANDUM TO

The Police Act 1997 (Criminal Record Certificates: Relevant Matters) (Amendment No. 2) Order (Northern Ireland) 2014

Insert SR No. 207

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Justice ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under section 113A(7) of the Police Act 1997 as modified by section 126A of that Act and is subject to the draft affirmative resolution procedure.

2. Purpose

2.1. This Order amends section 113A(6E)(b)(ii) of Part Vof the Police Act 1997.

3. Background

3.1. Section 113A(6E)(b)(ii) provides a definition of "current conviction" for a person aged under 18 years of age. The definition used is "aged 18 or under". Section 113A(6E)(b)(ii) was inserted in to Part V of the Police Act 1997 by the Police Act 1997 (Criminal Record Certificates: Relevant Matters) (Amendment) Order (Northern Ireland) 2014. This provided 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 with different filtering periods for persons aged 18 or over and those aged under 18.

3.2. This Order amends Section 113A(6E)(b)(ii) so that a conviction is a current conviction if the person was aged under 18 on the date of the conviction and that date fell within the period of 5 years and 6 months ending with the day on which a criminal record or enhanced criminal record certificate is issued. This amendment to paragraph (b)(ii) clarifies the reference to a person aged under 18 rendering it consistent with the existing references "aged under 18" in paragraphs (c)(ii) and (d). The legislation will be brought into operation on 8 July 2014.

4. Consultation

4.1. The Department consulted publicly in 2012 on the introduction of a filtering scheme. There was broad support from consultees for these proposals. The result of the consultation was published by the Department in December 2013. It can be accessed at www.dojni.gov.uk/index/public-consultation/archive-consultation/review-of-criminal-records-regime-further-consultation.htm

5. Equality Impact

5.1. An equality screening exercise was carried out on the filtering scheme and it was screened out as not requiring an equality impact assessment.

6. Regulatory Impact

6.1. This Order has no negative effect on business, charities, social economy enterprises or voluntary bodies.

7. Financial Implications

7.1. None

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered its obligations under section 24 of the Northern Ireland Act 1998 and is satisfied that this Order is not incompatible with Convention rights, nor is it incompatible with Community law. It does not discriminate against a person or class of person on the grounds of religious belief or political opinion, and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. There are no EU implications.

10. Parity or Replicatory Measure

10.1. This change brings Northern Ireland into line with practice in England and Wales where a system of filtering has already been introduced.

11. Additional Information

11.1. Not applicable