EXPLANATORY MEMORANDUM TO

THE POLICE ACT 1997 (CRIMINAL RECORDS) (AMENDMENT)

REGULATIONS 2009

2009 No. 2428

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument made under Part V of the Police Act 1997 provides for a reduction of £5 in the fee charged for a Criminal Record Certificate referred to as a Standard CRB check. The Standard fee will be reduced by £5 from £31 to £26.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Section 113A of the Police Act 1997 provides that the Secretary of State (acting through the CRB) must issue a criminal record certificate to any individual who (a) makes an application in the prescribed manner and form, and (b) pays in the prescribed manner any prescribed fee. This instrument prescribes the fee for such applications.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The objective of Part V of the Police Act 1997 is to widen access to criminal record checks to the private, public and voluntary sectors. The CRB provides an effective means through which employers, voluntary organisations and others can obtain details of an individual's criminal history as part of the recruitment process.

7.2 The CRB currently issues two levels of CRB check: Standard and Enhanced. Both include checks of the Police National Computer along with, where requested, a check against the lists of those considered unsuitable to work with children and/or vulnerable adults. An Enhanced CRB check will also include a check of local police force records for information considered relevant to the position applied for.

7.3 The CRB is a self funding Executive Agency of the Home Office and running costs are recovered via fees on a cost- recovery basis. The current fees for CRB checks are £31 for a Standard CRB check and £36 for an Enhanced CRB check. No fee is payable for volunteer applications.

7.4 Under HMT guidelines, fee levels should reflect the costs incurred in providing the service paid for. The reduction of £5 in the fee for a Standard CRB check will ensure that the fee level better reflects the costs incurred by CRB in providing this service. There will be no change in the fee for an Enhanced CRB check and volunteer applications will remain free of charge.

8. Consultation outcome

8.1 There is no requirement for a formal consultation but all organisations registered with the CRB, known as Registered Bodies (RBs), have been individually contacted to inform them of the fee change. The reduction in the Standard CRB check has also been communicated through the CRB consultative groups and via the CRB website. Responses from RBs have been favourable.

9. Guidance

9.1 As this is a fee change it is not considered that further guidance is necessary.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that from 1st October 2009 all applications for a Standard CRB check will be reduced by £5. Applications for those that meet the CRB definition of a volunteer will continue to be fee of charge.

10.2 The impact on the public sector is the same because the CRB does not differentiate in its services between the public and private sectors.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 This instrument affects all RBs, including small businesses. It is judged that the impact is not significant or disproportionate to small businesses as all RBs would benefit from the £5 reduction in the fee.

12. Monitoring & review

12.1 The fee will be reviewed annually prior to CRB setting its budget in March. This process will take into account any under or over recovery in costs following the fee change.

13. Contact

Julie Pemberton at the Criminal Records Bureau Tel: 0151 224 8667 or email: julie.pemberton@crb.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Criminal Records Bureau	Title: Impact Assessment for Reduction in fee for Standard level of CRB Check	
Stage: Final	**Version:** FINAL	**Date:** 1 September 2009
Related Publications:		

Available to view or download at:
http://www.crb.gov.uk/

Contact for enquiries: Julie Pembertonoenquiries: Telephone: 0151 224 8667

What is the problem under consideration? Why is government intervention necessary?

The Criminal Records Bureau (CRB) provides a service to employers to assist in their recruitment process. There are currently two levels of checks performed by the CRB known as Standard and Enhanced Disclosures. The Standard level of check contains details of all convictions, cautions, reprimands and warnings held on the Police National Computer (PNC). Also if requested, currently a check against the lists of those barred from working with children or vulnerable adults is also undertaken. The CRB is a self funding organisation and demand forecasting for 2009/10 indicates that CRB will be operating at a surplus therefore a £5 reduction in the current Standard Disclosure fee is required.

What are the policy objectives and the intended effects?

Fees for services provided by the CRB are required to be kept at a level to breakeven. CRB are currently working with a surplus and a reduction in the Standard fee will reduce any surplus.

What policy options have been considered? Please justify any preferred option.

1) Do nothing and remain operating at a surplus

2) Reduce Standard Disclosure fee by £5

Option 2 is the preferred option as this will reduce the surplus that CRB are currently forecasting.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The fee will be reviewed annually prior to CRB setting its budget in March. This process will take into account any under or over recovery in costs following the fee change.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Phil Woolas

..... Date: 04/09/09

Summary: Analysis & Evidence

Policy Option: 2	Description: Reduce Standard Disclosure fee by £5

COSTS

ANNUAL COSTS	
One-off (Transition) **Yrs**	Description and scale of **key monetised costs** by 'main affected groups' There would be no change to the administrative processes for businesses. There is a potential cost to the exchequer of around £1.5m per year because if CRB were to have a surplus this would be transferred from Registered Bodies (RBs) to the Treasury.
£ None	
Average Annual Cost (excluding one-off)	
£ 1.5m	**Total Cost** (PV) **£ 1.5m**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS	
One-off **Yrs**	Description and scale of **key monetised benefits** by 'main affected groups' The reduced fee would cut the costs faced by businesses. The value of the savings is estimated to be around £1.5m per year.
£ None	
Average Annual Benefit (excluding one-off)	
£ 1.5m	**Total Benefit** (PV) **£ 1.5m**

Other **key non-monetised benefits** by 'main affected groups'

Key Assumptions/Sensitivities/Risks The proposed fee level for Standard Disclosures is derived from projections using the best evidence currently available to the CRB. There is an assumption that the forecasted number of applications of 4.1m will be realised. If fewer applications were received there is a risk that CRB would be in a deficit position. The fee will be reduced by £5 to £26 per check.

Price Base Year 2010	Time Period Years 1	**Net Benefit Range** (NPV) **£ 0**	**NET BENEFIT** (NPV Best estimate) **£ 0**

What is the geographic coverage of the policy/option?				England and Wales
On what date will the policy be implemented?				1 October 2009
Which organisation(s) will enforce the policy?				CRB
What is the total annual cost of enforcement for these organisations?				£ N/A
Does enforcement comply with Hampton principles?				Yes
Will implementation go beyond minimum EU requirements?				No
What is the value of the proposed offsetting measure per year?				£ N/A
What is the value of changes in greenhouse gas emissions?				£ N/A
Will the proposal have a significant impact on competition?				No
Annual cost (£-£) per organisation (excluding one-off)	Micro **N/A**	Small **N/A**	Medium **N/A**	Large **N/A**
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ Nil Decrease £ Nil **Net Impact** £ Nil

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1. Introduction

1.1 The Criminal Records Bureau (CRB) is a self funding Executive Agency of the Home Office and running costs are recovered via a fee. The current fees are £36 for an Enhanced Disclosure and £31 for a Standard Disclosure. All volunteer applications that meet the CRB definition of a volunteer are free of charge and the fees paid for Disclosures subsidise volunteer applications. Fees have remained unchanged since April 2006.

2. Background

2.1 The Criminal Records Bureau (CRB) has been operational since March 2002. It was set up to meet demands for a more comprehensive and effective means through which employers, voluntary organisations and others could obtain details of an individual's criminal history as part of the recruitment process. This information will help employers assess an applicants' suitability to work with children, vulnerable adults and/or in certain other positions of trust.

2.2 There are two levels of criminal record checks available at the moment from the CRB, Standard and Enhanced Disclosures. Both provide information on an individual's unspent and spent convictions. If the post that is being applied for requires it, a check of the lists of those unsuitable to work with children and vulnerable adults is also undertaken. In addition to this, for an Enhanced Disclosure check, any local information held by a police force, deemed to be relevant to the position in question will be disclosed. Applications for Standard and Enhanced Disclosures must be countersigned by a Registered Body (RB). The purpose of a countersignature is to certify that the application for a Disclosure is required for the purpose of asking an exempted question under the terms of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Inclusion in the Exceptions Order enables spent convictions to be disclosed in addition to unspent and taken into account when assessing an applicant's suitability for employment involving working with children, vulnerable adults or other positions of trust.

2.3 In March 2009 the CRB budget was set based on a volume of 4m checks which would have resulted in a breakeven budget for the CRB. In May 2009 the budget was reviewed to check for any changes in the budget variables or underlying assumptions. The review identified an estimated increase in demand of around 3%. This is due mainly to the partial introduction of the Vetting and Barring Scheme in October 2009, which includes widening the scope of those eligible for a CRB check.

The Vetting and Barring Scheme

2.4 The Independent Safeguarding Authority (ISA) has been created to help prevent unsuitable people from working with children and vulnerable adults. The CRB will work in partnership with the ISA and will gather relevant information on every person who wants to work or volunteer with vulnerable people. Only applicants who are judged not to pose a risk to vulnerable people can be ISA registered. Once the scheme has been fully rolled out, employers who work with vulnerable people will only be allowed to recruit people who are ISA registered. Once a person has registered with the ISA, the CRB will continuously monitor a persons suitablity to work with the vulnerable. An employer will be able to check if a person is registered

with the ISA and can request to be informed of any changes to an persons status. The part of the service supported by the CRB is referred to as the Vetting and Barring Scheme and is due to be fully operational in July 2010.

Groups Affected

2.5 There are various groups affected by the proposal in both public and private sectors. There is an approximate split of 40% public and 60% private RBs registered with the CRB. The main sectors affected are education, care, voluntary, health, sport and social services.

Rationale

2.6 The CRB is a self funding organisation and should not run on a surplus. Fees are set to achieve a breakeven basis. Current demand forecasting indicates that under the present fees CRB would be operating at a surplus.

3. Objectives

3.1 This Policy objective is to ensure that CRB does not operate at a surplus. This would be achieved by reducing the fee for a Standard Disclosure by £5. By reducing the fee it is anticipated that CRB will reduce any surplus over the 12 month period from October 2009 to September 2010.

4. Options

4.1 The following options have been identified:

Option 1 - Do nothing and continue operating with a surplus

Option 2 - Reduce Standard Disclosure fee by £5

5. Costs and Benefits

Assumptions & Data

5.1 The CRB set its budget in March 2009 set on forecasted demand of 4m applications. Demand forecasting is continually assessed to take into account, for example, new eligibility for CRB Disclosures. The forecast set in March 2009 was reassessed in May 2009 to take into account the partial introduction of the Vetting and Barring Scheme which expands the scope of those eligible for a CRB check from October 2009. The revised forecast indicates that demand for applications would increase by around 3% to 4.1m from October 2009 to September 2010. The revised forecast takes into account the recession. Although figures are not available, the assumption has been made that the identified reductions in the private sector have been counterbalanced by an increase in the demand from the public sector. Recent forecasts have been accurate to within 1% and the revised forecast has been derived from the best information available to the CRB.

5.2 Of the revised forecast of 4.1m approximately 9% of applications will be for a Standard check and of these around 15% will be for free of charge volunteer applications. Therefore following removal of the 15% volunteer applications there will be approximately 301,000 Standard checks over a 12 month period for which the fee is required. Assuming that demand forecasting for 2010/11 is similar to 2009/10 then reducing the Standard Disclosure fee by £5 from the period October 2009 to September 2010 will reduce any surplus. There will be no change to the current Enhanced Disclosure fee of £36.

	No. of Standard checks forecast Oct 2009 – March 2010	No of Standard checks forecast April 2010 –Sept 2010 assuming demand remains unchanged	Total forecast for October 2009 – September 2010 assuming demand remains unchanged
Approximate forecast for Standard checks	177,000	177,000	354,000
Less approximately 15% volunteer applications	150,000	150,000	301,000
Reduction of £5 in Standard fee will reduce surplus by	150,000 x £5	150,000 x £5	301,000 x £5
	£750,000	£750,000	£1.5m

NB – Figures Rounded to the nearest 1,000th.

Option 1- Do nothing and operate with a surplus

Costs

5.3 The Budget for 2009/10 was based on a demand of around 4m applications which would have resulted in a breakeven situation. Revised forecasting indicates an increase in demand of around 3% resulting in CRB operating with a surplus of approximately £1.5m per year. As CRB is a self funding organisation any surplus is transferred from RBs to the Treasury.

Benefits

5.4 The benefit of option 1 is that the £1.5m would be transferred from RBs to the Treasury.

Option 2 - Reduce Standard Disclosure fee by £5

Costs

5.5 When the 2009/10 budget was set CRB estimated a demand of 4m applications which would have resulted in a breakeven budget. A review of the budget in May 2009 identified an increase in demand of around 3%. The increased demand would result in CRB having an estimated surplus of approximately £1.5m per year. Therefore, this is a potential cost to the Exchequer as any surplus is transferred from RBs to the Treasury.

5.6 The costs for implementing a reduction in the fee can not be quantified but is likely to be minimal as any activities are incorporated in the day to day business of the CRB.

Benefits

5.7 A reduction in the fee for a Standard level of CRB check will benefit both the public and private organisations registered with the CRB. Therefore RBs would save around £1.5m per year and the CRB would operate on a breakeven basis. Applications for volunteers will continue to be free of charge.

6. Risks

Option 1- Do nothing and operate with a surplus

6.1 There is a risk that CRB will not achieve its objective to breakeven if fees remain at the current level.

Option 2 - Reduce Standard Disclosure fee by £5

6.2 There is a risk that if the forecasted volumes of 4.1m are not met then CRB would be operating at a deficit. This could result in CRB considering a subsequent fee increase to eliminate any deficit.

7. Enforcement

7.1 This proposal will be implemented by the CRB. This is just a fee change and there will be no change to existing enforcements.

8. Geographic coverage

8.1 This proposal applies to England and Wales.

9. Summary and Recommendations

9.1 Option 2 is the preferred option as this will enable CRB to operate on a breakeven basis by reducing any forecasted surplus via a reduction in the fee for a Standard Disclosure.

Option	Costs	Benefits
1	Costs to RBs of around £1.5m per year	Benefits to the Exchequer of around £1.5m per year
2	Costs to the Exchequer of around £1.5m per year	Benefits to RBs of around £1.5m per year

10. Implementation

10.1 The CRB intend to implement the fee reduction on 1st October 2009 in line with common commencement dates.

11. Monitoring and Evaluation

11.1 The fee will be reviewed annually prior to CRB setting its budget in March. This process will take into account any under or over recovery in costs following the fee change.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	No

Annexes

Annex A: Specific Impact Test

Competition Assessment
Option 2 would not have an impact on competition as all RBs would benefit from the £5 reduction in the fee.

Small Firms Impact Test
The proposed changes would apply to all firms. It is judged that the impact is not significant or disproportionate, as all the RBs would benefit from the £5 reduction in the fee.

Equality Impact Test
The proposed changes would not have a disproportionate impact on sex, race or disability.