EXPLANATORY MEMORANDUM TO

THE POLICE ACT 1997 (CRIMINAL RECORDS) (AMENDMENT) REGULATIONS 2026

2026 No. 985

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Satvir Kaur MP, Minister of State for Safeguarding and Violence Against Women and Girls at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Chris Felton, Head of the Home Office Sponsorship Unit at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 David Watson at the Home Office Sponsorship Unit can be contacted by email at the following address with any queries regarding the instrument: ho.sponsorship.unit@homeoffice.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The instrument updates the fees charged by the Disclosure and Barring Service (DBS) for its Basic, Standard and Enhanced criminal records certificates and for its Update Service. The instrument reduces the fees for each product to ensure compliance with the cost-recovery principles set out in *Managing Public Money* (MPM) so that the DBS neither generate a surplus nor operates at a loss.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

4.4 Separate instruments (the Crown Dependency instruments) will be made to apply similar changes in the Crown Dependencies of the Isle of Man, the Bailiwick of Jersey and the Bailiwick of Guernsey.[1]

[1] The Police Act 1997 (Criminal Records and Registration) (Jersey) (Amendment) Regulations 2026; the Police Act 1997 (Criminal Records and Registration) (Guernsey) (Amendment) Regulations 2026; and the Police Act 1997 (Criminal Records and Registration) (Isle of Man) (Amendment) Regulations 2026.

5. Policy Context

What is being done and why?

5.1 The instrument – together with the Crown Dependency instruments – will ensure that fees for Basic, Standard, and Enhanced DBS checks and for the Update Service are consistent across England and Wales and the Crown Dependencies allowing the DBS to meet the full costs of service.

5.2 Fees were last amended in December 2024 when they were increased for each of the products below to address a significant deficit in 2024/25 and to fund the DBS's Legacy Technology Estates Replacement (LTER) programme. Subsequent delays to the delivery of the LTER programme led to lower than anticipated expenditure and generated a £32.1million surplus in 2025/26. While DBS identified the emerging surplus through its regular forecasting processes and, following scrutiny of the programme through a dedicated Programme Board chaired by the DBS Chief Executive, reviewed its fee levels and concluded that fees should be reduced. The reductions will enable the surplus to be returned to service users over a two-year period, balancing compliance with MPM principles with fee stability and avoiding significant fluctuations in charges from year-to-year. The LTER programme remains subject to ongoing oversight and governance, and DBS fees will continue to be kept under annual review to ensure that any future changes in delivery are reflected appropriately.

5.3 These instruments will amend the fees the DBS charges for its services. The DBS is a fee-funded Non-Departmental Public Body established under the Police Act 1997 to administer the criminal records disclosure system. A principal responsibility of the DBS is to issue certificates to applicants either confirming that the individual has no convictions and is of no interest to police or detailing relevant criminal record information about the individual. These certificates are then used by organisations and individuals to inform recruitment and employment decisions. The different certificates are:

- **Basic Certificates:** include details of unspent convictions and unspent conditional cautions and can be used for any position or purpose. Any employer can therefore ask to see a basic criminal record check.
- **Standard Certificates:** for those applying for positions listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (for example solicitor, accountant, private security). These include spent and unspent convictions and cautions, subject to filtering arrangements.
- **Enhanced Certificates:** for those applying for positions listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and the Police Act 1997 (Criminal Records) Regulations 2002 (for example those working with children in a supervised capacity). These include spent and unspent convictions and cautions, subject to filtering arrangements, plus any additional information considered relevant by the local police force to the role being applied for.

5.4 In addition to the certificates outlined above, the DBS also provides an **Update Service** for England and Wales, Jersey, Guernsey, and the Isle of Man, which allows applicants to keep their certificates up to date and enables employers to check them.

5.5 The DBS must adhere to MPM by setting fees to achieve full cost recovery and a break-even position so that the government neither profits at the expense of customers, nor makes a loss for taxpayers to subsidise.

5.6 Specifically, DBS fees are being reduced as follows:

- Enhanced check: from £49.50 to £41.00
- Standard check: from £21.50 to £20.00
- Basic check: from £21.50 to £20.00
- Update Service subscription: from £16.00 to £15.00

What was the previous policy, how is this different?

5.7 The previous policy intention was to ensure that fees for Basic, Standard, and Enhanced DBS checks and for the Update Service are consistent across England and Wales, the Isle of Man and the Bailiwick of Jersey and the Bailiwick of Guernsey.

5.8 The fees are being reduced to ensure that the principles in MPM are adhered to which requires that DBS fees should meet the full costs of the service and neither produce a loss nor a surplus.

6. Legislative and Legal Context

How has the law changed?

6.1 The criminal records disclosure regime for England and Wales was established under Part V of the Police Act 1997, as amended by the Protection of Freedoms Act 2012. The 1997 Act makes provision for criminal record certificates to be provided to eligible applicants and permits the Secretary of State to prescribe fees for certificates, or to waive the fee.

6.2 Legislation requires the department to formally consult with the Government of the Isle of Man, and the department has engaged directly with their Minister for Justice and Home Affairs to secure agreement. Whilst legislation does not require the department to consult the Bailiwick of Jersey and the Bailiwick of Guernsey, it has engaged with them directly to notify them of the fees changes as a matter of courtesy. The department will also be engaging directly with the Ministry of Justice regarding the registration of the Jersey instrument in the Royal Court of Jersey.

6.3 The Police Act 1997 does not apply to Scotland and Northern Ireland and there is no requirement to consult with the Scottish and Northern Ireland Governments. We have however written to inform them of the changes to the fees as a matter of courtesy, along with the Welsh government.

6.4 The current fees for England and Wales are set out in the Police Act 1997 (Criminal Records) Regulations 2002 (SI 2002/233). The Police Act 1997 (Criminal Records) (Amendment) Regulations 2026 decreases the fees payable for Basic, Standard and Enhanced checks and the Update Service. There is no change to the fee waiver, which is being retained.

6.5 Reducing the fees requires four separate instruments to be laid:

- For **England and Wales**, the Police Act 1997 (Criminal Records) (Amendment) Regulations 2026 amend The Police Act 1997 (Criminal Records) Regulations 2002 to decrease the fees for Basic, Standard, and Enhanced certificates and for subscriptions to the Update Service.
- For **Jersey**, the Police Act 1997 (Criminal Records and Registration) (Jersey) (Amendment) Regulations 2026 amend the Police Act 1997 (Criminal Records and Registration) (Jersey) Regulations 2010 to decrease the fees for Basic, Standard and Enhanced certificates and for subscriptions to the Update Service, in line with the position in England and Wales.

- For **Guernsey**, the Police Act 1997 (Criminal Records and Registration) (Guernsey) (Amendment) Regulations 2026 amend the Police Act 1997 (Criminal Records and Registration) (Guernsey) Regulations 2009 to decrease the fees for Basic, Standard and Enhanced certificates and for subscriptions to the Update Service, in line with the position in England and Wales.
- For the **Isle of Man**, the Police Act 1997 (Criminal Records and Registration) (Isle of Man) (Amendment) Regulations 2026 amend the Police Act 1997 (Criminal Records and Registration) (Isle of Man) Regulations 2011 to decrease the fees for Basic, Standard and Enhanced certificates and for subscriptions to the Update Service, in line with the position in England and Wales.

Why was this approach taken to change the law?

6.6 The current fees are set out in secondary legislation.

7. Consultation

Summary of consultation outcome and methodology

7.1 There is no statutory duty to consult publicly on changes to DBS fees and accordingly no formal public consultation was undertaken. However, the Department of Home Affairs of the Isle of Man has been consulted, as required by article 9 of the of the Police Act 1997 (Criminal Records) (Isle of Man) Order 2010. The authorities in Guernsey and Jersey have been informed of the respective Crown Dependencies instruments, and the Devolved Administrations have also been informed of the proposed changes. The Isle of Man agreed the fees reductions and recognised the importance of maintaining consistency with England and Wales and the other Crown Dependencies.

8. Applicable Guidance

8.1 The instruments do not implement or require formal guidance. The DBS will inform its customers and stakeholders of the fee reductions via its website, social media and other channels of communication open to them when the instrument are laid.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for the instruments because the changes relate to fee adjustments that fall outside the scope of the Better Regulation Framework. However, proportionate economic analysis has been undertaken to accompany the instruments and is presented in an Economic Note which has been published alongside the Explanatory Memorandum.

9.2 The change in fees is intended to exhaust the surplus built up since the current fees were introduced and avoid the accumulation of a new surplus. This is expected to result in an economic transfer of £86m from DBS to service users across a 3-year appraisal period. This is relative to a baseline scenario in which fees are not changed, and DBS continues to accrue a budget surplus.

Impact on businesses, charities and voluntary bodies

9.3 The impact on business, charities or voluntary bodies will be positive as all applicants will benefit financially from the fee decreases. It is also worth noting that charities

and voluntary bodies are already largely exempt from paying for standard and enhanced fees and so will be largely unaffected by the changes.

9.4 The legislation may impact small or micro businesses but in a positive fashion as applicants will benefit from the fees decrease.

9.5 There will be a significant, positive economic impact on the public sector from the fees decrease.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The monitoring of this legislation will be carried out annually by the DBS via its annual review of fees. The DBS will subsequently inform the Home Office of its effectiveness and any future changes to the fees which may be required.

10.2 The instruments do not include a statutory review clause. It is not considered appropriate to include one given the positive impact on business and the technical nature of the measure. The DBS's annual fee review process provides an established mechanism for ongoing monitoring and adjustment if required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument is subject to the negative resolution procedure and complies with the 21-day rule. The instrument reduces the fees payable for Disclosure and Barring Service certificates and subscriptions to the Update Service in England and Wales. The department's current legal advice is that the Crown Dependency instruments are not subject to parliamentary procedure. Although comparable instruments were previously laid before Parliament, that is now considered to have been unnecessary and the present approach reflects the correct legal position.

12. European Convention on Human Rights

12.1 This instrument is subject to the negative resolution procedure and does not amend primary legislation. Accordingly, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").