EXPLANATORY MEMORANDUM TO

[The Police Act 1997 (Criminal Records) (Amendment) Regulations (Northern Ireland) 2026]

S.R. 2026 N0. 13

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 sections 113B(2)(b), 113BB(1) and 125(1) and (5) of the Police Act 1997 as modified by section 126A of that Act and is subject to the negative resolution procedure.

2. Purpose

2.1. These Regulations have been introduced to enhance safeguarding measures in circumstances where individuals are working with vulnerable adults in undertaking the role of restorative justice practitioners.

2.2. These Regulations amend The Police Act 1997 (Criminal Records) (Disclosure) Regulations (NI) 2008 ("the 2008 Regulations") to provide eligibility of enhanced checks, including adult suitability information, for individuals who are seeking to act as restorative justice practitioners.

2.3. The Regulations also extends eligibility for enhanced checks to those under the age of 16 and who reside in the same household as individuals who are being hosted under the Homes for Ukraine Sponsorship Scheme.

2.4. Connected amendments to the statutory framework in relation to self-disclosure are being made in the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979.

3. Background

3.1. The disclosure of criminal records information in NI is undertaken by AccessNI on behalf of the Department of Justice in accordance with Part V of the Police Act 1997. There are three levels of check available, Basic, Standard and Enhanced. A Basic check is the disclosure of unspent convictions. A Standard check is the disclosure of spent and unspent convicitons and cautions, subject to filtering rules. An Enhanced check shows the same information as a Standard check, with the addition of relevant information held by police and, as appropriate, a check of the lists of people barred from working with children and/or vulnerable adults (Barred Lists).

3.2. Regulation 9 of the 2008 Regulations sets out the prescribed purposes for which an Enhanced criminal record certificate may be required, thereby creating eligibility for Enhanced checks to be carried out for specific roles. Regulation 9 includes roles that meet the definiton of "Regulated Activity" with children and vulnerable adults within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

3.3. The postion of restorative justice practitioners are currently eligible for an AccessNI Enhanced check by virtue of the fact that the role falls within the pre-2012 definition of Regulated Activity. However, in this context, there is no legislative provision for a check of the barred lists. The Department considers that, as a result of this, there is a risk of a small safeguarding gap insofar as, without this barred list check, an individual barred from working with vulnerable adults could be successful in being appointed to the role.

3.4. Inserting Regulation 9(l)(s) into the 2008 Regulations creates a new prescribed purpose for which an Enhanced criminal record certificate may be required (thereby enabling Enhanced checks to be carried out) in respect of restorative justice practitioners, accredited by the Department of Justice.

3.5. These Regulations also amend Regulation 9B of the 2008 Regulations, by inserting Regulations 9(1)(s), thereby permitting checks of Barred Lists in respect of those seeking to act as restorative justice practitioners. This will support safeguarding measures by alerting decision makers if an applicant is barred from activities with vulnerable adults.

3.6. These Regulations also amend Regulation 12 of the 2008 Regulations, by inserting regulation 9(1)(p) and (q), thereby permitting Enhanced checks to be sought for any person (including those under 16 years) living in the same household as an individual being hosted under the Homes for Ukraine Sponsorship Scheme. This amendment addresses a legislative oversight when the prescribed purspose for this role was established in 2022 (SR 2022 No. 212).

4. Consultation

4.1. The Department of Justice has not consulted on this matter as this is considered a narrow amendment to facilitate change to address potential safeguarding gaps. The Department believes a public consultation would be disproportionate in these circumstances.

5. Equality Impact

5.1. Consideration has been given to compliance with section 75 of the Northern Ireland Act 1998. The Department considers that this matter will not have a differential impact on any of the section 75 categories and, on this basis, the measure was screened out.

6. Regulatory Impact

6.1. The Department has concluded that there are no impacts arising on the wider business community as a result of this change.

7. Financial Implications

7.1. Fees are liable to be paid for AccessNI checks sought in relation to applications from those seeking to act as restorative justice practitioners, accredited by the Department of Justice. These fees, which are relatively low, will be paid by applicants.

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 these Regulations are not incompatible with Convention rights, nor are they incompatible with Community law, do not discriminate against a person or class of person on the grounds of religious belief or political opinion, and do 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 amendment relates to Northern Ireland only.

11. Additional Information

11.1. Not applicable.