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FROM: FIONA SCULLION
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DATE: 10 SEPTEMBER 2026

TO: KATHY O'HANLON
CLERK TO THE COMMITTEE FOR JUSTICE

Summary: Amendments to the Police Act 1997 (Criminal Records) (Amendment) Regulations (Northern Ireland) 2026 and Rehabilitation of Offenders (Exceptions) Order (NI) 2026.

Business area: AccessNI.

Issue: SL1 - Amendments to the Police Act 1997 (Criminal Records) (Amendment) Regulations (Northern Ireland) 2026 and Rehabilitation of Offenders (Exceptions) Order (NI) 2026.

Restrictions: None.

Action Required: For consideration.

Officials Attending: N/A. Written briefing only.

Background

The Minister for Communities wrote to the Minister for Justice in June 2026 seeking a targeted amendment to Northern Ireland legislation to permit AccessNI Enhanced Disclosure checks, including barred list checks, for registered health care professionals undertaking assessments on behalf of the Department for Communities.

The Minister for Communities indicated that these health care professionals undertake a high volume of functional health assessments each year with individuals who may be vulnerable due to illness or disability. Minister Lyons added that as these roles do not meet the statutory definition of Regulated Activity (as defined in the Safeguarding Vulnerable Groups (NI) Order 2007), the Department considers that AccessNI Enhanced checks cannot be requested at present for these roles.

Minister Lyons advised that this legislative gap has recently been addressed in England and Wales for registered health care professionals delivering health assessments on behalf of the Department for Work and Pensions. Minister Lyons sought the equivalent legislative amendments in Northern Ireland to maintain parity with England and Wales to ensure consistent safeguarding standards across jurisdictions, particularly given the scale and sensitivity of these assessment services.

In response, the Minister for Justice agreed to take forward this legislative change.

To provide for this legislative change, amendments are required to the following two Statutory Rules:

- The Police Act (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008; and
- Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979.

The Statutory Rules are subject to negative resolution and will come into effect on 14th December 2026. The relevant draft Statutory Rules are attached.

Purpose of the Statutory Rules

The Statutory Rules are being introduced, following engagement with the Department for Communities, to address potential safeguarding gaps and maintain legislative parity with changes to equivalent legislation already enacted in England and Wales. The Statutory Rules create provision for:

- a) Eligibility for Enhanced checks under **The Police Act (Criminal Records)(Disclosure) Regulations (Northern Ireland) 2008** for:
 - i. Considering an applicant's suitability to assess children and vulnerable adults as a registered health care professional employed or engaged by the Department of Communities or contractors or sub-contractors who are carrying out activities for the Department for Communities; and
 - ii. Inclusion of a check of the children's and adult's barred list for this role.
- b) New exclusions under the **Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979** in respect of registered health care professionals employed or engaged by the Department of Communities or contractors or sub-contractors who are carrying out activities for the Department for Communities.

Reason for Legislative change

Section 113B(2)(b) of the Police Act 1997 requires that 2 conditions must be met for a role to be eligible for an Enhanced check, namely:

- a) The role must be a prescribed purpose (within The Police Act (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008); and
- b) The role must be subject to an exempted question, i.e. it must be included within the exclusions set out in Article 2 of the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 – this will allow for disclosure of the full criminal record, subject to filtering rules.

Consultation

The proposed SRs will make narrow amendments to facilitate change to address potential safeguarding gaps and are required in order to mirror similar legislative changes already in place in England and Wales.

The Department does not consider that a public consultation is required in these circumstances.

Equality Impact

There is no specific impact on any of the specified groups in the equality legislation as the changes apply equally to applications from all groups.

Regulatory Impact

The Department concluded that there are no impacts arising on the wider business community as a result of these legislative changes.

Financial Implications

No additional costs to the Department are expected as a result of these changes. Disclosure fees are liable to be paid for AccessNI checks sought in relation to applications from those seeking to undertake the role of Registered Health Care Professionals in the circumstances set out above.

EU Implications

There are no EU implications.

Section 24 of the Northern Ireland Act 1998

This legislation is not incompatible with rights under the European Convention, incompatible with European Community Law and does not discriminate on the grounds of religious belief or political opinion.

Operational Date

The rule will come into effect from 14th December 2026.

I would be grateful if you would bring this matter to the attention of the Justice Committee.

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

An Roinn Dlí agus Cirt

Mánnystrie O tha Laa

www.justice-ni.gov.uk

**FIONA SCULLION
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cc. Human Rights Commission
Legislative Programme Secretariat

ENC. DRAFT STATUTORY RULES and EXPLANATORY MEMORDANDA