

# **SERIOUS CRIME ACT 2015**

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## **EXPLANATORY NOTES**

### **TERRITORIAL EXTENT**

#### **Part 4: Seizure and Forfeiture of Drug-Cutting Agents**

##### **Background**

219. Certain chemical substances, some of which may also be used in the manufacture of medicinal products for human or veterinary use, can be used as cutting agents for bulking illegal drugs, thereby maximising criminal profit margins. The “grey market” trade (that is, where it is unclear if there is an apparent legitimate end use) in these substances has become a significant element of the domestic cocaine trade over the last five years, but there are currently no laws or regulations that specifically target the domestic trade in cutting agents. This trade impacts across the UK enabling organised criminals to maximise their profits from the trade in illegal drugs and increases the risks posed to local communities.
220. In the UK, benzocaine, lidocaine and phenacetin are the most common chemicals used to “cut” illegal drugs, especially cocaine. This is because these chemicals mimic some of the effects, as well as resembling the drug in appearance, allowing a significant increase in adulteration of the illicit drug than would be possible with an inert substance such as glucose.
221. In 2013, there were over 75 border seizures of chemicals such as benzocaine, lidocaine and phenacetin, totalling over two tonnes. Law enforcement agencies used existing customs or policing powers to seize cutting agents in these cases, such as where the substances are linked to an ongoing criminal investigation or the substances were imported under false labelling. However, since the current powers do not explicitly target cutting agents, loopholes exist which means that law enforcement agencies cannot always seize suspected cutting agents. The new powers are designed to address this problem.
222. The majority of cocaine available at street level contains one or more adulterants, some of the most common being benzocaine and phenacetin. In 2013, 63% of street level seizures of cocaine hydrochloride (powder cocaine) contained benzocaine, while 91% of street level base cocaine seizures (the majority of which is ‘crack cocaine’) contained phenacetin. Much of this adulteration occurs within the UK; in 2013, the quarterly average purity of cocaine hydrochloride at importation level ranged from 69-71%, while the average purity at user level ranged from 32-38%<sup>1</sup>. Importing a kilogram of high-quality cocaine may cost around £45,000, while a kilogram of benzocaine can be bought for £300. It is common for cocaine to be mixed at an initial 1:1 ratio with benzocaine, allowing the resulting product potentially to be sold for £90,000. Cutting agents can therefore significantly increase the criminals’ profits from drug trafficking.
223. The new powers will allow law enforcement agencies to seize any substances reasonably suspected of being intended for use as a cutting agent. These are commonly

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<sup>1</sup> ‘Average’ here refers to weighted mean purity. For further details see the NCA ENDORSE 2013 Annual Report

*These notes refer to the Serious Crime Act 2015 (c.9)  
which received Royal Assent on 3rd March 2015*

legal to import and sell as bulk chemicals. For example, benzocaine and lidocaine are used within the pharmaceutical industry as active substances in a number of medicinal products. However, they have limited legitimate use in the UK in raw powder form, requiring laboratory processes and licensing for manufacturing into an administrable form. Phenacetin, also legal to import and sell, is an analgesic that is no longer used in legitimate business because of its carcinogenic properties.

224. The Government's Drug Strategy 2010<sup>2</sup> included a commitment to develop a robust approach to stop criminals profiting from the trade in cutting agents, working with production countries, the legitimate trade and international partners. In May 2013, the Home Office published the consultation document "Introduction of new powers to allow law enforcement agencies to seize and detain chemical substances suspected of being used as drug cutting agents". The response to the consultation was published on 31 March 2014<sup>3</sup>. Part 4 of the Act confers new powers on law enforcement agencies to seize, detain and destroy chemical substances reasonably suspected of being used as cutting agents for illegal drugs. The provisions are modelled on the police entry, search and seizure powers in Part 2 of Police and Criminal Evidence Act 1984 ("PACE") and the cash seizure and forfeiture powers in Chapter 3 of Part 5 of POCA. The provisions in Part 4 of the Act will be supported by court procedural rules to be made (in the case of magistrates' court rules in England and Wales) by the Lord Chancellor under sections 144 and 145 of the Magistrates' Court Act 1980. Such rules will be analogous to those that apply to the cash seizure and forfeiture powers in Chapter 3 of Part 5 of POCA, namely the [Magistrates' Court \(Detention and Forfeiture of Cash\) Rules 2002 \(SI 2002/2998\)](#), as amended.

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<sup>2</sup> <https://www.gov.uk/government/publications/drug-strategy-2010--2>

<sup>3</sup> <https://www.gov.uk/government/consultations/cutting-agents-consultation>