

*Status: Point in time view as at 12/03/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Crime and Courts Act 2013, SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1

#### THE NCA & NCA OFFICERS

##### PART 1

##### THE NCA

###### *Functions exercisable on behalf of Crown*

1 NCA functions are exercisable on behalf of the Crown.

###### **Commencement Information**

**11** Sch. 1 para. 1 in force at 7.10.2013 by [S.I. 2013/1682](#), **art. 3(b)**

###### *Efficiency and effectiveness*

2 It is the duty of the Director General to secure that NCA functions are discharged efficiently and effectively.

###### **Commencement Information**

**12** Sch. 1 para. 2 in force at 7.10.2013 by [S.I. 2013/1682](#), **art. 3(b)**

###### *Financial year*

3 (1) The first financial year of the NCA is the period that—  
(a) begins with the day on which section 1 comes into force, and  
(b) ends with the following 31 March.  
(2) After that, the financial year of the NCA is the period of 12 months ending with 31 March.

###### **Commencement Information**

**13** Sch. 1 para. 3 in force at 7.10.2013 by [S.I. 2013/1682](#), **art. 3(b)**

###### *Charging*

4 (1) The NCA may charge a person for any service provided at the person's request.

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- (2) This paragraph has effect subject to Part 5 of Schedule 3 (payment for tasks, assistance or facilities).
- (3) In this paragraph “service” means a service of any kind (including the provision of facilities) which is provided by means of the exercise of any NCA function.

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 7.10.2013 by [S.I. 2013/1682](#), [art. 3\(b\)](#)

*Activities not limited to dealing with serious or organised crime*

- 5 (1) For the purposes of the discharge of NCA functions which relate to organised crime or serious crime, an NCA officer may, in particular, carry on activities in relation to any kind of crime (whether or not serious or organised).
- (2) In circumstances in which an NCA officer reasonably suspects that an offence is about to be, or is being, committed, that officer is not prevented from exercising powers merely because the offence does not relate to organised crime or serious crime.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 7.10.2013 by [S.I. 2013/1682](#), [art. 3\(b\)](#)

*Activities in Scotland*

- 6 (1) An NCA officer may only carry out activities in Scotland in relation to an offence which an NCA officer suspects has been committed (or is being committed) if the NCA officer does so with the agreement of the Lord Advocate.
- (2) In carrying out such activities in Scotland, an NCA officer must comply with any direction (whether general or specific) given by the Lord Advocate or the procurator fiscal.
- (3) If an NCA officer suspects that an offence has been committed (or is being committed) in Scotland, the NCA officer must report the matter to the procurator fiscal (or ensure that the matter is so reported by another NCA officer) as soon as is practicable.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 7.10.2013 by [S.I. 2013/1682](#), [art. 3\(b\)](#)

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## *[<sup>F1</sup>Investigatory activity in Northern Ireland*

### **Textual Amendments**

**F1** Sch. 1 para. 6A inserted (19.5.2015) by [The Crime and Courts Act 2013 \(National Crime Agency and Proceeds of Crime\) \(Northern Ireland\) Order 2015 \(S.I. 2015/798\)](#), art. 1(3), **Sch. 2 para. 15**

- 6A. (1) An NCA officer may only carry out relevant investigatory activity in Northern Ireland if one or both of the following conditions is met—
- (a) the NCA officer carries out the relevant investigatory activity with the agreement of the Chief Constable of the Police Service of Northern Ireland;
  - (b) the NCA officer carries out the relevant investigatory activity in relation to the conduct of a police officer.
- (2) The Chief Constable may arrange for a member of the Police Service of Northern Ireland at the rank of Superintendent or above to give agreement for the purposes of sub-paragraph (1)(a) (whether in all cases or in cases specified in the arrangements).
- (3) In this paragraph “relevant investigatory activity” means any activity which is authorised by an authorisation granted under any of the following provisions—
- (a) in the Regulation of Investigatory Powers Act 2000—
    - (i) section 28 (directed surveillance);
    - (ii) section 29 (conduct or use of a covert human intelligence source);
    - (iii) section 32 (intrusive surveillance);
  - (b) section 93 of the Police Act 1997 (authorisation in respect of property).]

## **PART 2**

### **NCA OFFICERS**

#### *Selection and appointment of the Director General*

- 7 (1) The Secretary of State is to select and appoint the Director General, after consultation with—
- (a) the Scottish Ministers, and
  - (b) the Department of Justice in Northern Ireland.
- (2) A person may not be appointed as Director General unless the Secretary of State is satisfied that the person—
- (a) is capable of effectively exercising operational powers; and
  - (b) is a suitable person to exercise operational powers.
- (3) A person need not be an NCA officer before appointment as the Director General.
- (4) The Director General is to hold and vacate office in accordance with the terms and conditions of the appointment (subject to paragraph 8).
- (5) The terms and conditions of an appointment as Director General are to be determined by the Secretary of State.
- (6) The terms and conditions of an appointment as Director General must provide for that appointment to last for a period which does not exceed 5 years; and a person

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who has previously been, or currently is, Director General may be appointed again as Director General.

- (7) Sections 10 to 14 of the Constitutional Reform and Governance Act 2010 (appointments of civil servants) do not apply to the appointment of the Director General.

#### Extent Information

- E1** Sch. 1 para. 7(1)(b): "the relevant NCA provisions" as specified in the table in Sch. 24 para. 9, and to the extent there specified, do not extend to Northern Ireland, see Sch. 24 paras. 1, 2
- E2** Sch. 1 para. 7(1)(b) extended (N.I.) (20.3.2015) by [The Crime and Courts Act 2013 \(National Crime Agency and Proceeds of Crime\) \(Northern Ireland\) Order 2015 \(S.I. 2015/798\)](#), arts. 1(2), **3(1)(c)(i)**

#### Commencement Information

- I7** Sch. 1 para. 7 in force at 27.5.2013 by [S.I. 2013/1042](#), **art. 3(i)**

#### *Resignation or retirement of the Director General at request of Secretary of State*

- 8 (1) The Secretary of State may call upon the Director General to resign or retire—
- (a) in the interests of efficiency or effectiveness, or
  - (b) because of misconduct by the Director General.
- (2) The Secretary of State must comply with sub-paragraphs (3) and (4) before calling upon the Director General to resign or retire.
- (3) The Secretary of State must consult—
- (a) the Scottish Ministers, and
  - (b) the Department of Justice in Northern Ireland.
- (4) The Secretary of State must—
- (a) give the Director General a written explanation of the reasons why the Secretary of State is proposing to call for the resignation or retirement;
  - (b) give the Director General the opportunity to make written representations about the proposal to call for the resignation or retirement; and
  - (c) consider any written representations made by the Director General.
- (5) The Director General must resign or retire if called upon to do so in accordance with this paragraph.

#### Extent Information

- E3** Sch. 1 para. 8(3)(b): "the relevant NCA provisions" as specified in the table in Sch. 24 para. 9, and to the extent there specified, do not extend to Northern Ireland, see Sch. 24 paras. 1, 2
- E4** Sch. 1 para. 8(3)(b) extended (N.I.) (20.3.2015) by [The Crime and Courts Act 2013 \(National Crime Agency and Proceeds of Crime\) \(Northern Ireland\) Order 2015 \(S.I. 2015/798\)](#), arts. 1(2), **3(1)(c)(ii)**

#### Commencement Information

- I8** Sch. 1 para. 8 in force at 7.10.2013 by [S.I. 2013/1682](#), **art. 3(b)**

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### *Selection of other NCA officers for appointment*

- 9 (1) The Director General is to select other persons for appointment as National Crime Agency officers.
- (2) The terms and conditions of an appointment as an NCA officer (other than as Director General) are to be determined by the Director General with the agreement of the Minister for the Civil Service.
- (3) This paragraph does not apply to NCA specials.

#### **Commencement Information**

**I9** Sch. 1 para. 9 in force at 7.10.2013 by [S.I. 2013/1682](#), [art. 3\(b\)](#)

### *Delegation of Director General's functions*

- 10 (1) The Director General may arrange for any function of the Director General to be exercised by a senior NCA officer who is designated for the purpose by the Director General.
- (2) A designation under this paragraph may provide for a function to be exercised by—
- (a) one or more senior NCA officers specified in the designation, or
  - (b) one or more senior NCA officers of a description specified in the designation.
- (3) The Director General's powers of direction under section 5(5) and paragraph 11 of Schedule 3 may not be delegated under this paragraph.
- (4) But those powers of direction may, in the absence of the Director General for any reason, be exercised by a senior NCA officer nominated for this purpose by the Director General.
- (5) In this paragraph “senior NCA officer” means an NCA officer who is at, or above, a grade specified for this purpose by the Secretary of State in the framework document.

#### **Modifications etc. (not altering text)**

**C1** Sch. 1 para. 10 excluded by 2000 c. 23, s. 55(3A) (as substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 93\(3\)](#); [S.I. 2013/1682](#), [art. 3\(v\)](#))

#### **Commencement Information**

**I10** Sch. 1 para. 10 in force at 7.10.2013 by [S.I. 2013/1682](#), [art. 3\(b\)](#)

### *Continuity*

- 11 (1) Anything done by or in relation to the Director General may be continued by or in relation to the Director General regardless of which individual holds that office at any time.
- (2) Anything done by or in relation to one NCA officer (except the Director General) may be continued by or in relation to any other such NCA officer.

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**Commencement Information**

**I11** Sch. 1 para. 11 in force at 7.10.2013 by [S.I. 2013/1682](#), [art. 3\(b\)](#)

*Persons with operational powers who become NCA officers*

- 12 (1) If a person holds a relevant office when the person becomes an NCA officer (the “existing office”), the person's holding of the existing office—
- (a) is suspended from the time when the person becomes an NCA officer;
  - (b) but is revived if the person—
    - (i) ceases to be an NCA officer, and
    - (ii) returns to service as holder of the existing office.
- (2) Sub-paragraph (1) ceases to apply to a person who resigns from, or otherwise ceases to hold, the other office.
- (3) In this paragraph “relevant office”, in relation to a person who is an NCA officer, means any other office by virtue of which that person has operational powers (such as the office of constable, officer of Revenue and Customs, or immigration officer), apart from the office of special constable or constable in the Police Service of Northern Ireland Reserve.

**Commencement Information**

**I12** Sch. 1 para. 12 in force at 7.10.2013 by [S.I. 2013/1682](#), [art. 3\(b\)](#)

*Secondments to NCA*

- 13 (1) The Director General may make arrangements for persons to be seconded to the NCA to serve as National Crime Agency officers.
- (2) A member of a police force on temporary service with the NCA is to be under the direction and control of the Director General.
- (3) Paragraph 12(1) does not apply to a member of a special police force who is an NCA officer by virtue of a secondment.

**Commencement Information**

**I13** Sch. 1 para. 13 in force at 7.10.2013 by [S.I. 2013/1682](#), [art. 3\(b\)](#)

*Secondments by NCA*

- 14 (1) The Director General may make arrangements for NCA officers to be seconded to a UK police force.
- (2) An NCA officer who is seconded to a UK police force is, whilst on secondment, under the direction and control of the chief officer of the police force (but is not a member of the police force).

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#### **Commencement Information**

**114** Sch. 1 para. 14 in force at 7.10.2013 by S.I. 2013/1682, art. 3(b)

#### *NCA specials*

- 15 (1) The Director General may select and appoint persons as National Crime Agency officers on a part-time unpaid basis (and such persons are referred to in this Part of this Act as “NCA specials”).
- (2) The terms and conditions of an appointment as an NCA special are to be determined by the Director General.
- (3) Sub-paragraph (1) does not prevent NCA specials from working otherwise than on a part-time basis if the Director General considers that it is appropriate for them to do so because of exceptional circumstances.
- (4) Sub-paragraph (1) does not prevent provision being made for—
- (a) the reimbursement of the expenses of NCA specials,
  - (b) the subsistence, accommodation or training of NCA specials, and
  - (c) the payment of sums to, or in respect of, current or former NCA specials to compensate for loss attributable to injury or death resulting from the performance of duties as NCA specials.
- (5) The Director General—
- (a) may designate an NCA special under section 10 as a person having the powers and privileges of a constable; but
  - (b) may not so designate an NCA special as a person having the powers of an officer of Revenue and Customs or the powers of an immigration officer.
- (6) If an NCA special is designated as a person having the powers and privileges of a constable, paragraph 11(1)(b) to (d) of Schedule 5 (powers and privileges in Scotland, Northern Ireland and outside the UK) do not apply in relation to the NCA special.
- (7) The Director General may not—
- (a) under paragraph 10, arrange for any function to be exercised by an NCA special or nominate an NCA special to exercise a power of direction;
  - (b) provide an NCA special by way of assistance under Part 3 of Schedule 3 (whether in response to a request or a direction).
- (8) The Secretary of State may not appoint an NCA special to be a member of an advisory panel under paragraph 4 of Schedule 5 to make recommendations about the operational powers of the Director General.
- (9) The no-strike provisions in section 13 do not apply in relation to NCA specials.
- (10) No determination under regulations under section 14 may be made in relation to the pay and allowances and other terms and conditions of employment of NCA specials.
- (11) If a person is both—
- (a) an NCA special designated as a person having the powers and privileges of a constable, and

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(b) a special constable or a member of the Police Service of Northern Ireland Reserve,

none of the operational powers which the person has as an NCA special are exercisable at any time when the person is exercising any power or privilege which the person has as a special constable or as a member of the Police Service of Northern Ireland Reserve.

(12) A person is not a civil servant by virtue of being an NCA special.

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**Commencement Information**

**I15** Sch. 1 para. 15 in force at 7.10.2013 by [S.I. 2013/1682](#), [art. 3\(b\)](#)



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