

# **SERIOUS CRIME ACT 2015**

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## **EXPLANATORY NOTES**

### **TERRITORIAL EXTENT**

#### **Part 3: Organised, Serious and Gang-Related Crime**

##### **Commentary on Sections**

##### ***Section 51: Injunctions to prevent gang-related violence and drug-dealing activity***

215. This section replaces the existing section 34 of the 2009 Act which sets out the circumstances in which a court may grant a gang injunction. Two conditions must currently be satisfied. The first condition is that the respondent has engaged in, or assisted or encouraged, “gang-related violence”. Once this condition is satisfied, the court may grant an injunction if a second condition is satisfied, namely that it thinks it is necessary to do so in order “to prevent the respondent from engaging in, or encouraging or assisting, gang-related violence” (section 34(3)(a)) or “to protect the respondent from gang-related violence” (section 34(3)(b)). Section 34(5) of the 2009 Act defines gang-related violence as:

“Violence or a threat of violence which occurs in the course of, or is otherwise related to, the activities of a group that:

- (a) consists of at least 3 people;
- (b) uses a name, emblem or colour or has any other characteristic that enables its members to be identified by others as a group; and
- (c) is associated with a particular area.

216. This definition is now considered by front line professionals to be unduly restrictive and fails to reflect the true nature of how gangs operate. In particular, a gang does not always have a name, emblem, colour or other characteristic which enables its members to be identified as a group. Instead, a collection of individuals may operate as a group and engage in criminality with some degree of organisation without such common identifying features. In addition, gangs are increasingly involved in criminality, particularly drug-related criminality, beyond their own areas or may operate in a manner that does not associate the group with a given area. In recognition of this, the revised section 34 of the 2009 Act recasts the key features of a gang to be a group which:

- Consists of at least three people (revised section 34(5)(a));
- Has one or more characteristics that enable its members to be identified by others as a group (revised section 34(5)(b)); and
- Engages in gang-related violence or is involved in the illegal drug market (revised section 34(2) read with revised section 34(6) and (7)).

217. The identifying characteristics of a gang may, but need not, relate to any of the following:

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

- The use by the group of a common name, emblem or colour;
- The group's leadership or command structure;
- The group's association with a particular area;
- The group's involvement with a particular unlawful activity.

218. As now, the court will be able to attach prohibitions or requirements to an injunction (revised section 34(4)). Such prohibitions or requirements may, for example, bar the respondent from going to a particular place or area or from associating with and/or contacting a specified person or persons, or requiring him or her to participate in set activities on specified days.