

EXPLANATORY MEMORANDUM TO
THE NATIONAL CRIME AGENCY (REMUNERATION REVIEW BODY)
REGULATIONS 2013

2013 No. 1958

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 The National Crime Agency (Remuneration Review Body) Regulations 2013 (“the Regulations”) provide for the Secretary of State to determine, from time to time, the rates of pay and allowances to be paid to officers of the National Crime Agency, of a lower grade than Deputy Director, who have been designated under section 10 of the Crime and Courts Act 2013. The Regulations establish a National Crime Agency Remuneration Review Body (hereafter referred to as the ‘Review Body’) and before making such a determination, the Secretary of State must refer the matter to the Review Body which must consider it and produce a report. The Secretary of State must consider that report before making the determination. The Regulations also set out how the Review Body will operate and how members will be appointed.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 The Crime and Courts Act 2013 provides for the establishment of a National Crime Agency (NCA) which will comprise NCA officers, one of whom will be the Director General. The NCA will lead the fight against serious and organised crime and strengthen border security. Section 10 of the Act provides for NCA officers to be designated as having one or more of: the powers of an immigration officer, customs officer or police officer.

4.2 Section 13 imposes strike restrictions on NCA officers that have been designated with powers under section 10. Specifically, section 13 provides that it would be unlawful for any union to induce an NCA officer designated under section 10 of the Act to take strike action. NCA officers affected by this provision will still be able to be members of trade unions.

4.3 Section 14 provides the Home Secretary with a power to make regulations to establish procedures for determining the pay and allowances, and other associated terms and conditions, for those NCA officers affected by the legislative strike restrictions in section 13. The Regulations set out a procedure under which the Secretary of State determines the rates of pay and

allowances of officers of a lower grade than Deputy Director, but only after consideration of a report from the NCA Remuneration Review Body which will have the power to review the matter.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 The principle policy aim for these Regulations is to ensure that those NCA officers affected by the legislative strike restrictions set out in s.13 of the Crime and Courts Act have an appropriate mechanism in place to review their pay and allowances in the absence of a right to take strike action.

7.2 The Regulations therefore provide for the establishment, and operation of an NCA Remuneration Review Body (the 'Review Body') which will review the pay and allowances of the NCA officers below the grade of Deputy Director who are subject to the legislative strike restrictions. NCA officers designated with powers who are of grade Deputy Director and above will have their pay reviewed separately alongside other Senior Civil Servants. The Review Body will consist of a chair appointed by the Prime Minister, and at least five members appointed by the Home Secretary. There is an options provision for one member to be appointed as deputy chair by the Home Secretary.

7.3 The Home Secretary will be responsible for setting the rates of pay and allowances of NCA officers, of a lower grade than Deputy Director, designated with operational powers. Before doing so, the Home Secretary shall refer the matter to the Review Body and consider its report on the matter. The Review Body must consider and report on any matter referred to it by the Home Secretary that relates to the pay and allowances of NCA officers of a lower grade than Deputy Director, designated with operational powers. The report must be submitted to both the Home Secretary and Prime Minister.

7.4 The Regulations provide for the Home Secretary to give direction to the Review Body about the time within which it must report, considerations to which it must have particular regard, the evidence that it must obtain, and matters on which it is to make recommendations. In practice, any such direction is likely to be provided to the Review Body in the form of a remit letter at the start of every pay cycle. The Review Body is able to include in their report any recommendation that it considers appropriate arising out of the matters referred to it.

7.5 The Regulations provide additional detail about the arrangements surrounding the members of the Review Body, in particular their appointment, resignation and dismissal. It also provides for the Review Body to determine its own procedure, and for the Home Secretary to consult with those whom she considers to represent the interests of NCA officers, and the Director General of the NCA in specific circumstances. These are before determining (or revising a determination of) the composition of the Review Body, issuing (or revising) a statement of principles setting out a code of conduct for the Review Body membership, and in giving (or revising) the Review Body's Terms of Reference including any direction in relation to whom the Review Body must obtain evidence from, or the procedure for obtaining evidence.

7.6 Should the Home Secretary wish to provide funds for the Review Body and Review Body members, the Regulations provide for this.

- Consolidation

7.7 This order does not amend any existing instrument.

8. Consultation outcome

8.1 Initial consultation took place with the recognised unions of the Serious Organised Crime Agency, whose workforce will become that of the NCA, over a three week period. This was a targeted consultation therefore a shorter timeframe was considered to be appropriate. The unions provided a joint response which set out an opposition in principle to the concept of a pay review body and raised a number of queries including the role of trade unions in the NCARRB process. The Home Office responded to these following the consultation period providing additional detail on the NCARRB mechanism.

9. Guidance

9.1 The Office of Manpower Economics, who will provide the secretariat to the Review Body, will provide guidance in relation to the Review Body

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is minimal. The only body affected will be the National Crime Agency and National Crime Agency officers designated with operational powers under section 10 of the Crime and Courts Act. The core provision from which the requirement for the Review Body arises are set out in the Crime and Courts Act. These Regulations merely set out the procedures through which such NCA officers will have their pay and allowances reviewed.

10.3 An Impact Assessment has not been prepared for this instrument as there is no impact on the private or voluntary sectors and the overall impact is expected to be minimal.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Home Office will maintain oversight of the Review Body and the exercise of its functions. It is expected that through this regular interaction any difficulties with the operation of the Regulations will be identified.

13. Contact

Roxana Bakharia at the Home office Tel: 020 7035 3670 or email:
Roxana.bakharia@homeoffice.gsi.gov.uk who can answer any queries regarding the instrument.