

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: The National Crime Agency

Section 1: The National Crime Agency

92. *Subsection (1)* establishes the National Crime Agency (“NCA”) which will be made up of NCA officers. *Subsection (2)* provides for the NCA to be headed by a Director General who will also be an NCA officer. The NCA will be under the direction and control of the Director General who will be operationally independent of Ministers.
93. *Subsections (3) to (11)* provide for the functions of the NCA. These consist of the functions conferred by this section (*subsection (3)(a)*), the functions set out in the Proceeds of Crime Act 2002 (*subsection (3)(b)*) and other functions conferred by this Act and by other enactments (*subsection (3)(c)*). Those other functions will include, for example, being a protection provider for the purpose of the protection of witnesses and other persons under section 82 of the Serious Organised Crime and Police Act 2005.
94. The NCA’s principal functions will be the crime reduction function (*subsection (4)*) and the criminal intelligence function (*subsection (5)*).
95. The crime reduction function relates to securing that efficient and effective activities to combat organised crime and serious crime are carried out (whether by the NCA, other law enforcement agencies, or other persons). *Subsections (6) to (10)* amplify the nature of this function and how it may, or may not, be discharged. In discharging this function, the NCA may itself undertake activities to combat serious crime and organised crime, including by preventing, detecting or investigating such crime, or otherwise. *Subsection (11)* explains the reference to ‘activities to combat crime’. When discharging functions relating to organised or serious crime, the NCA may carry out activities in relation to any kind of crime (*paragraph 5* of Schedule 1). This reflects the role of the NCA in the reduction of crime in other ways (*subsection (11)(c)*) and mitigating the consequences of crime (*subsection (11)(d)*). This acknowledges that the investigation and prosecution of organised criminals is only one of the strategies that may be deployed to tackle organised criminality and that there are a range of disruption tactics that will need to be deployed by the NCA in order to reduce the harm and impact caused by organised criminal groups.
96. In addition to undertaking activities of its own, the NCA may discharge its crime-reduction function in other ways by: ensuring that other law enforcement agencies and others also carry out activities to combat serious and organised crime (*subsection (8)*); and by improving co-operation between law enforcement and other agencies to combat serious crime and organised crime and by improving co-ordination of their collective efforts to combat serious crime and organised crime (*subsection (9)*).
97. The role of the NCA in tackling serious crime and organised crime does not include the function of the NCA itself prosecuting offences or, in Scotland, the NCA itself instituting criminal proceedings (*subsection (10)*). In England and Wales the

*These notes refer to the Crime and Courts Act 2013
(c.22) which received Royal Assent on 25 April 2013*

prosecutorial function will be undertaken by the Crown Prosecution Service and the Serious Fraud Office and in Northern Ireland the prosecutorial function will be undertaken by the Public Prosecution Service, whilst in Scotland responsibility for instituting criminal proceedings and prosecuting offences rests with the Crown Office and Procurator Fiscal Service.

98. *Subsection (12)* gives effect to Schedule 1.