

Draft Order laid before Parliament under section 58(4)(a) and (j) of the Crime and Courts Act 2013, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2023 No.

NATIONAL CRIME AGENCY

The National Crime Agency (Directed Tasking) Order 2023

Made - - - - *******

Coming into force in accordance with article 1

The Secretary of State makes this Order in exercise of the powers conferred by sections 58(12)(a) and (b) and 59 of, and paragraph 33(1)(a) of Schedule 3 to, the Crime and Courts Act 2013⁽¹⁾.

The Secretary of State has consulted the Director of the Serious Fraud Office in accordance with paragraph 33(3) of Schedule 3 to that Act.

In accordance with section 58(4)(a) and (j) of that Act, a draft of this Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the National Crime Agency (Directed Tasking) Order 2023 and comes into force on the day after the day on which it is made.

(2) This Order extends to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In this Order, “the Act” means the Crime and Courts Act 2013.

Amendment to the Act

3. In section 5(5) of the Act (NCA’s power to direct persons to perform specified tasks), after paragraph (b) insert—

“(c) the Director of the Serious Fraud Office.”.

Conditions for directions

4. The Director General may give a direction under section 5(5)(c) of the Act only if it appears to the Director General on reasonable grounds that the matter in respect of which the direction is to be given involves serious or complex fraud.

Scope of directions

5. A direction under section 5(5)(c) of the Act may not be given in respect of the prosecution functions of the Director of the Serious Fraud Office.

Payments by Director General

6. If the Director of the Serious Fraud Office performs a task in accordance with a direction under section 5(5)(c) of the Act, the Director General must pay to the Director of the Serious Fraud Office—

- (a) such amount as may be agreed between the Director General and the Director of the Serious Fraud Office, or
- (b) in the absence of their agreement, such amount as may be agreed between the Secretary of State and the Attorney General.

Amendment to the Criminal Justice Act 1987

7. In section 2 of the Criminal Justice Act 1987(2) (Director’s investigation powers)—

- (a) after subsection (1) insert—

“(1ZA) The powers of the Director under this section are also exercisable in any case in which it is necessary to exercise them for the purpose of complying with a direction given under section 5(5)(c) of the Crime and Courts Act 2013 (NCA’s power to direct persons to perform specified tasks).”;

- (b) in subsection (1A), after “The authorities” insert “mentioned in subsection (1) which are”.

Date

Name
Minister of State
Home Office

(2) 1987 c. 38; section 2 was amended by section 143 of the Criminal Justice Act 1988 (c. 33) and by section 164(2) of the Criminal Justice and Public Order Act 1994 (c. 33) which inserted subsection (1A). There are other amendments not relevant to this instrument.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 5(5) of the Crime and Courts Act 2013 (c. 22) (“the Act”) gives the Director General of the National Crime Agency (the “NCA”) the power to direct that certain persons perform a task.

Article 3 of this Order amends section 5(5) of the Act to add the Director of the Serious Fraud Office (the “SFO”) to the list of persons who can be directed under this power. Article 4 specifies that a direction can only be given to the Director of the SFO if it appears to the Director General of the NCA that the matter involves serious or complex fraud. Article 5 specifies that a direction cannot be made in respect of the prosecution functions of the Director of the SFO.

Article 6 makes supplementary provision to ensure that the Director General of the NCA meets the costs of the Director of the SFO in complying with a direction. This follows the approach taken in paragraph 29 of Schedule 3 to the Act, which requires the Director General of the NCA to make a payment to a UK law enforcement agency if the agency performs a task in response to a request under section 5(5) of the Act.

Article 7 makes a consequential amendment to section 2 of the Criminal Justice Act 1987 (c. 38) to ensure that the powers of the Director of the SFO are exercisable for the purposes of following a direction given by the Director General of the NCA.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.