

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

SUMMARY

4. The Act is in three Parts. Part 1 establishes the National Crime Agency (“NCA”). Part 2 contains various provisions in respect of the modernisation of the courts and tribunals system, awards of damages and costs against publishers of news-related material, community sentencing, extradition, the proceeds of crime and other provision about the administration of justice. Part 3 contains provisions in relation to border control, the immigration appeal system, public order offences and drug driving as well as standard provisions in respect of, amongst other things, orders and regulations, commencement and extent.
5. [Part 1](#) provides for the NCA. Sections 1 to 4 and 8 and Schedules 1, 2 and 4 establish the Agency, set out its functions, provide for the appointment of a Director General as the operationally independent head of the NCA, and make provision for the governance of the NCA. Section 5 and Schedule 3 provide a framework for the NCA and other law enforcement agencies to collaborate in order to assist each other in the discharge of their functions. Section 6 places a duty on the Director General to publish certain information. Sections 7 and 12 and Schedule 7 make provision for the disclosure of information by and to the NCA and for the use of information by the Agency. Sections 9 and 10 and Schedule 5 provide for the operational powers of the Director General and other NCA officers, including by making provision to enable the Director General to designate NCA officers with one of more of the powers of a constable, a customs officer or an immigration officer. Section 11 and Schedule 6 provide for the NCA to be inspected by Her Majesty’s Inspectors of Constabulary, and for regulations to make provision for oversight by the Independent Police Complaints Commission. Sections 13 and 14 place restrictions on certain NCA officers taking industrial action and make provision for the determination of such NCA officers’ pay and allowances. Section 15 and Schedule 8 abolish the Serious Organised Crime Agency (“SOCA”) and the National Policing Improvement Agency (“NPIA”) and make transitional and consequential provision. Part 1 is subject to Schedule 24 (The NCA: Northern Ireland) which sets out those ‘relevant NCA provisions’ in Part 1 that do not apply to Northern Ireland.
6. [Part 2](#) contains provisions to further modernise courts and tribunals and in respect of judicial appointments. Section 17 and Schedules 9 to 11 establish a single county court and single family court in England and Wales. Section 18 and Schedule 12 provide for applications for gang-related injunctions in respect of young persons to be considered by the youth court rather than the county court or High Court. Section 19 provides courts with the power to vary the designation of the local authority responsible for a remanded young person, thus allowing the Youth Justice Board to correctly charge for its services. Section 20 and Schedule 13 make provision in respect of judicial appointments, including in relation to: the number of UK Supreme Court Judges; when a selection commission can be convened for the appointment of UK Supreme Court judges; taking account of diversity considerations to distinguish between candidates who are of equal merit; calculating the maximum number of judges in the Court of Appeal and High Court by reference to the number of full-time equivalent judges; the

composition of the Judicial Appointments Commission; the selection of commissioners and commissioners' terms of office; and the transfer of powers of the Lord Chancellor in relation to judicial appointments to the Lord Chief Justice and Senior President of Tribunals. Schedule 13 also makes provision for the delegation of certain functions of Heads of Division in the event of a vacancy in the office or that the office-holder is incapable of exercising specified functions.

7. **Section 21** and Schedule 14 make provision for court judges to sit in tribunals, and for tribunal judges to sit as court judges. Section 22 removes the restrictions on the transfer of immigration and nationality applications for judicial review or permission to apply for judicial review from the High Court, the Court of Session and the High Court of Northern Ireland to the Upper Tribunal. Section 23 provides a power for rules of court to be made to restore the second-tier appeals test when the Court of Session considers an application for permission to appeal from the Upper Tribunal. Section 24 abolishes the jurisdiction of judges of the High Court to sit as Visitors to the Inns of Court in barristers' disciplinary hearings and instead gives power for Bar regulators to confer rights of appeal to the High Court. Section 25 makes amendments of Part 3 of the Tribunal, Courts and Enforcement Act 2007 relating to the use of force by bailiffs to enter commercial and domestic premises and the definition of abandonment.
8. **Section 26** facilitates the contracting out of all functions of fines officers and makes provision for the costs of collecting fines and other financial penalties to be recovered from offenders in certain circumstances. Section 27 provides for the sharing of information in connection with the enforcement of fines and other financial penalties. Section 28 provides for the sharing of information about social security, earnings and whether an applicant receives tax credits, and information about a person's income, gains and capital, in connection with fee-remission applications. Section 29 provides for the appointment of the Chief Executive of the UK Supreme Court and other staff. Section 30 makes provision for the appointment, training and powers of UK Supreme Court security officers. Section 31 clarifies the circumstances in which there may be filming and broadcasting of judicial proceedings in the UK Supreme Court. Section 32 allows for the filming and broadcasting of judicial proceedings below the UK Supreme Court in specified circumstances. Section 33 abolishes the offence of scandalising the judiciary in England and Wales. Sections 34 to 42, and Schedule 15, set out the new system for exemplary damages and costs in relation to publication of news-related material, as well as defining those who meet the definition of a 'relevant publisher' to whom the new system of exemplary damages will apply.
9. **Section 43** makes further provision about the use of force in self-defence. Section 44 and Schedule 16 make a number of changes to the framework governing community and other non-custodial sentences for adult offenders. Section 45 and Schedule 17 provide for deferred prosecution agreements – a new tool to tackle financial and economic crime. Sections 46 and 47 provide for legal aid payments to be made from restrained assets in prescribed circumstances. Sections 48 and 49 and Schedules 18 and 19 amend the Proceeds of Crime Act 2002 in response to the UK Supreme Court judgment in the case of *Perry v SOCA* (July 2012). Section 50 and Schedule 20 make various amendments to the Extradition Act 2003, including: introducing a forum bar to extradition and removing the Home Secretary's obligation to consider human rights issues when making an extradition decision.
10. **Part 3** contains miscellaneous and general provisions. Section 51 makes a number of amendments relating to immigration appeal rights and facilitating combined appeals in immigration cases. Section 52 removes full rights of appeal against the refusal of a family visit visa. Section 53 removes the in-country right of appeal of persons excluded from the UK by the Secretary of State. Section 54 provides for certain national security deportation appeals to be made out of country if they are clearly unfounded or there is no risk of serious irreversible harm to the individual involved. Section 55 and Schedule 21 make further provision in respect of the powers of immigration officers. Section 56 and Schedule 22 create a new offence of drug driving and make further provision for the

*These notes refer to the Crime and Courts Act 2013
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taking of preliminary drug tests. Section 57 removes the insulting limb of the offence in section 5 of the Public Order Act 1986.

11. [Sections 58 to 61](#) and Schedule 23 deal with the making of orders and regulations under the Act and provide for the short title, commencement and extent. Schedules 24 and 25 make provision as to the application to Northern Ireland of the provisions in respect of the National Crime Agency and the amendments to the Proceeds of Crime Act 2002.