

NATIONAL CITIZEN SERVICE ACT 2017

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the National Citizen Service Act 2017 (c. 15) which received Royal Assent on 27 April 2017.

- These Explanatory Notes have been prepared by the Department for Culture, Media and Sport in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

- 1 This Act will create a statutory framework for the National Citizen Service ('NCS'), with the aim of ensuring proper oversight of the management of public funding for the service. It should be read alongside the Royal Charter ('the Charter') that incorporates the body that will deliver NCS, to be known as the NCS Trust. The Act and the Charter work together, and the Act makes provision about the NCS Trust.

Policy background

- 2 The NCS has been available since 2011, and consists of courses for young people in England and Northern Ireland, mostly aged 16 and 17. The courses take place during school holidays and are partly residential. They comprise a mixture of activities – adventures, life skills and social action – which encourage young people to engage with their community and develop for the future.
- 3 The programme is currently administered by a community interest company, also called the NCS Trust (company registration number 08235117, 'the Company'). The Company contracts with providers in different parts of England to deliver the programme. The Company is grant-funded on an annual basis by the Cabinet Office.
- 4 The NCS is intended to enable the young people who attend to meet people from different backgrounds, enhancing their life skills and increasing their employability. It is also intended to encourage community cohesion. An increase in funding for the NCS was announced in the 2015 spending review to fulfil the government's aspiration that attendance on the NCS become a 'rite of passage' for all young people.
- 5 The Act aims to help fulfil the government's objectives in two ways. First, the Act (in combination with the Charter) will reform the legal framework for the NCS. In particular the combination of the Act and Charter:
 - Incorporates the new NCS Trust as a Charter body and creates a legislative mechanism to transfer the business of the Company to the new Trust. This creates a legislative framework for the NCS, with the aim of making it a national institution while preserving its independent ethos;
 - Aims to secure that the administrative and funding arrangements for the NCS Trust are appropriate for the increased level of public funds the Trust will manage, with proper accountability to government and Parliament; and
 - Aims to impose on the NCS Trust an appropriate level of government control for a body in receipt of public funds.
- 6 Secondly, the Act enables HMRC to send information about the Trust and its work to those young people who are eligible for NCS (and their parents and carers) and invite them to take part in the NCS. This will allow HMRC to assist the Trust to promote its programmes.
- 7 Detailed provisions on the constitution, procedure and powers of the NCS Trust are contained in the Charter. These include matters such as: the Trust's functions and objectives; the methods by which its members and chief executive are to be appointed; remuneration of members and employees; delegation of functions; regulation of procedure; and the powers of the Trust, for example, to enter into agreements, invest money and accept gifts.

Legal background

- 8 The majority of the relevant legal background is explained in the policy background section of these notes.
- 9 As explained in that section, the NCS is currently administered by the Company. The Company was incorporated in October 2012 under the name NCS Trust. As a community interest company it is subject to the provisions of the Companies (Audit, Investigations and Community Enterprise) Act 2004.

Territorial extent and application

- 10 Section 13 sets out the territorial extent of the Act; that is, the jurisdictions of which the Act forms part of the law. The extent of an Act can be different from its application. Application is about where an Act produces a practical effect.
- 11 This Act extends to England and Wales but applies in England only (except for consequential amendments to other enactments, which have the same extent as the provisions being amended).
- 12 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly without the consent of the legislature concerned.
- 13 While the Act includes provisions that are within the legislative competence of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, the Act applies in England only, so no legislative consent motion is being sought in relation to any provision of the Act.
- 14 See Annex A for a summary of the position regarding territorial extent and application in the United Kingdom

Commentary on provisions of Act

Part 1: National Citizen Service Trust

Section 1: National Citizen Service Trust

- 15 Section 1 refers to the NCS Trust, the body that will be established by the Charter. It describes the Trust's functions, which are the functions to be conferred on it by article 3 of the Charter.

Section 2 and Schedule 1: Transfer schemes

- 16 Section 2 introduces Schedule 1, which confers power on the Secretary of State to make a scheme providing for the transfer of the staff, property, rights and liabilities of the Company to the NCS Trust. This allows the Secretary of State, once the Trust has come into existence, to transfer the business and assets of the Company to the Trust. This is intended to allow an orderly transfer, which will preserve continuity and, where appropriate, protect the rights of NCS staff and interested third parties.
- 17 Under paragraph 5 of Schedule 1 the Secretary of State must consult those likely to be affected by a transfer scheme and have regard to the results of the consultation.

Section 3: Finance

- 18 Section 3 gives the Secretary of State the power to fund the NCS Trust through grants out of money provided by Parliament.

Section 4: Accounts and audit

- 19 Section 4 sets out the accounting and audit requirements to which the NCS Trust is subject. It requires that the Trust's accounts must be examined by the National Audit Office and laid before Parliament.

Section 5: Business plan

- 20 Section 5 places a requirement on the NCS Trust to publish and lay before Parliament an annual business plan setting out its main priorities and activities for the year ahead. This will provide a yardstick against which government, Parliament and the public can assess the Trust's performance.

Section 6: Annual report

- 21 Section 6 requires the NCS Trust to give the Secretary of State an annual report, detailing the extent to which it has met its strategic priorities for the year. The annual report must also address the quality of the Trust's programmes, amongst other matters. This is intended to enable effective monitoring of the Trust's performance from one year to the next. Combined with the business plan, this ensures government, Parliament and the public have oversight of how far the Trust has achieved its objectives for the year.

Section 7: Notification of financial difficulties and criminal conduct

- 22 Section 7 requires the NCS Trust to notify the Secretary of State promptly if: (a) anyone supplying the Trust with goods or services to support the Trust's main functions is in serious financial difficulty or in breach of contract with serious consequences for the Trust; (b) a member of staff of the Trust or one of its suppliers commits fraud or is in breach of his or her employment contract with serious consequences for the Trust, or (c) there is a police investigation into an allegation of criminal conduct by a member of staff of the NCS Trust or one of its providers, where that investigation could have serious consequences for the NCS Trust.

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- 23 This is intended to ensure the government is kept informed of anything that poses a serious risk to delivery of the programme or the performance of the Trust. It does not require notification of, for example, minor breaches of contract or breaches of contract by suppliers providing goods or services that do not directly support the Trust's main functions, such as cleaning or stationery providers.

Section 8: Fees

- 24 The Company currently charges a small fee for attendance on its programmes. The fee does not represent the cost of the programmes; it is an incentive to ensure attendance. Section 8 enables the NCS Trust to continue this practice if appropriate.

Section 9: HMRC functions

- 25 Section 9 allows HMRC to assist the NCS Trust in performing its function of promoting its programmes by sending out communications to young people and their parents and carers. The communications may contain information about the Trust's work and invite the young people concerned to participate in NCS programmes. The Trust must determine the content of the communications. This is intended to help the Trust get its message across to the majority of eligible young people.

Part 2: General

Sections 10 to 15 and Schedule 2: miscellaneous provisions

- 26 Sections 10 to 15 make provision relating to definitions; consequential amendments; transitional arrangements; extent; commencement; and short title.
- 27 Section 11 introduces Schedule 2, which makes consequential amendments to other legislation in relation to the NCS Trust. The consequential amendments mean that the chair of the Trust is disqualified from standing for election to the House of Commons, and that the Trust is subject to the requirements of the Public Records Act 1958, the Freedom of Information Act 2000 and the Equality Act 2010.
- 28 Paragraph 1 of Schedule 2 concerns eligibility for election to the House of Commons. In the government's view it therefore does not fall within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly. Schedule 2 to the Act does not, therefore, deal solely with devolved matters.

Commencement

29 The provisions of the Act will come into force as provided for by section 14 of the Act. Section 14 itself (Commencement) comes into force on Royal Assent. Sections 1 (National Citizen Service Trust), 10 (Definitions), 12 (Transitional Provision), 13 (Extent) and 15 (Short title) also come into force on Royal Assent. The remaining measures in the Act will be brought into force by regulations.

Related documents

30 The following documents are relevant to the Act and can be read at the stated locations:

- *The Conservative Party Manifesto 2015*, April 2015
<https://web.archive.org/web/20150615055241/https://www.conservatives.com/manifesto>
- Queen's Speech, May 2016
<https://www.gov.uk/government/speeches/queens-speech-2016>
- Prime Minister's speech on life chances, January 2016
<https://www.gov.uk/government/speeches/prime-ministers-speech-on-life-chances>

Annex A - Territorial extent and application in the United Kingdom

- 31 The Act extends to England and Wales but applies in England only, save for the consequential amendments to other enactments, which have the same extent as the provisions being amended.

Annex B - Hansard References

- 32 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	14 December 2016	N/A
Second Reading	16 January 2017	Vol. 619 Col. 687
Public Bill Committee	24 January 2017	Col. 1
Report and Third Reading	15 March 2017	Vol. 623 Col. 444
<i>House of Lords</i>		
Introduction	11 October 2016	Vol. 774 Col. 1779
Second Reading	25 October 2016	Vol. 776 Col. 112
Grand Committee	16 November 2016	Vol. 776 Col. 119GC
Report	7 December 2016	Vol. 777 Col. 727
Third Reading	14 December 2016	Vol. 777 Col. 1247
Commons Consideration of Lords Amendments	4 April 2017	Vol. 782 Col. 935
Royal Assent	27 April 2017	House of Commons Vol. 624 Col. 1230
		House of Lords Vol. 782 Col. 1528

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