
STATUTORY INSTRUMENTS

2016 No. 1143

NATIONAL CRIME AGENCY

The Crime and Courts Act 2013 (Application and Modification of Enactments) Order 2016

Made - - - - *24th November 2016*
Laid before Parliament *25th November 2016*
Coming into force - - *25th December 2016*

The Secretary of State has consulted the Commissioners for Her Majesty's Revenue and Customs in accordance with paragraph 29(2)(a) of Schedule 5 to the Crime and Courts Act 2013⁽¹⁾.

The Secretary of State makes the following Order in exercise of the powers conferred by paragraphs 27(1)(b), 27(2)(d)(i) and (ii), and 29(1)(b) of Schedule 5 to that Act:

Citation and commencement

1. This Order may be cited as the Crime and Courts Act 2013 (Application and Modification of Enactments) Order 2016 and comes into force on 25th December 2016.

Interpretation

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

Application of the 2006 Act to designated persons

3.—(1) The 2006 Act applies in relation to—

(a) designated persons, and

(b) the exercise of powers by such persons under Part 1 of the 2013 Act,

with the modifications set out in paragraph (2).

(2) For the references to “constable of the rank of superintendent or above” in sections 32(2) and 33(2) of the 2006 Act, substitute “designated person of at least grade 2”.

(3) In this article—

“the 2006 Act” means the Immigration, Asylum and Nationality Act 2006⁽²⁾;

(1) 2013 c.22.
(2) 2006 c.13.

“designated person” means—

- (a) the Director General of the NCA designated as a person having the powers and privileges of a constable under section 9(2)(a) of the 2013 Act, or
- (b) an NCA officer designated as a person having such powers under section 10(1)(a) of the 2013 Act.

Application of the 2015 Order to designated persons

4.—(1) The 2015 Order applies in relation to—

- (a) designated persons, and
- (b) the exercise of powers by such persons under Part 1 of the 2013 Act,

with the modifications set out in paragraph (2).

(2) For the references in column 2 in Part 2 of Schedule 2 to the 2015 Order to—

- (a) “Officer”, substitute “Designated person of at least grade 4”;
- (b) “Higher officer”, substitute “Designated person of at least grade 3”;
- (c) “Senior officer”, substitute “Designated person of at least grade 2”.

(3) In this article—

“the 2015 Order” means the Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015(3);

“designated person” means—

- (a) the Director General of the NCA designated as a person having the powers of an officer of Revenue and Customs under section 9(2)(b) of the 2013 Act, or
- (b) an NCA officer designated as a person having such powers under section 10(1)(b) of the 2013 Act.

24th November 2016

Ben Wallace
Minister of State
Home Office

EXPLANATORY NOTE

(This note is not part of the Order)

Under sections 9(2) and 10(1) of the Crime and Courts Act 2013 (c. 22) the Director General of the National Crime Agency (“NCA”) and other NCA officers, respectively, can be designated as persons having the powers and privileges of a constable; the powers of an officer of Revenue and Customs; and the powers of an immigration officer. This Order applies with modifications (1) the Immigration, Nationality and Asylum Act 2006 (c. 13) (“the 2006 Act”) to enable a power to be exercised by the Director General and other NCA officers designated with the powers and privileges of a constable and (2) the Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (“the 2015 Order”) (S.I. 2015/1783) to enable certain powers to be exercised by the Director General and other NCA officers designated with Revenue and Customs officers’ powers.

Section 32(2) of the 2006 Act imposes an obligation on the owner or agent of a ship or aircraft to comply with any requirement imposed by a constable of the rank of superintendent or above to provide passenger or service information. Section 33(2) imposes a similar obligation in connection with the provision of freight information. Article 3 of this Order ensures that NCA officers designated with the powers and privileges of a constable, and of at least grade 2 in rank, can impose such information requirements.

The 2015 Order applies certain provisions of the Police and Criminal Evidence Act 1984 (c. 60) (“PACE”), subject to specified modifications, to relevant investigations conducted by officers of Revenue and Customs and to persons detained by such officers. A relevant investigation is a criminal investigation conducted by officers of Revenue and Customs which relates to a matter in relation to which Her Majesty’s Revenue and Customs have functions. Part 2 of Schedule 2 to the 2015 Order provides that where in PACE an act or thing is to be done by a constable of a certain rank, that same act or thing shall, in the application of PACE to Revenue and Customs, be done by an officer of Revenue and Customs of at least an equivalent grade. The equivalent Revenue and Customs grade for the rank of sergeant is “officer”; for the ranks of police inspector and chief inspector is “higher officer”; and for the rank of superintendent is “senior officer”. However, these Revenue and Customs grades are not shared within the NCA officer hierarchy. In order to provide for the appropriate grade of NCA officer, designated with the powers of an officer of Revenue and Customs, to exercise the PACE powers, article 4 of this Order applies Part 2 of Schedule 2 to the 2015 Order with the modification that for the references to “officer”, “higher officer” and “senior officer” there are substituted references to the equivalent NCA officer ranks.

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