

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: The National Crime Agency

Section 7: Information gateways

162. *Section 7* is a broad information gateway. *Subsection (1)* authorises any person to disclose information to the NCA if the disclosure is made for the purposes of the exercise of any NCA function.
163. The only exception to the general power in *subsection (1)* is set out in *subsection (2)* which provides *subsection (1)* does not authorise a person serving in the Security Service, Secret Intelligence Service or GCHQ to disclose information to the NCA so any disclosure of information by such a person to the NCA would be made in accordance with the relevant intelligence service arrangements as defined in *subsection (10)*.
164. *Subsection (3)* provides information obtained by the NCA in connection with the exercise of any NCA function may be used by the NCA in connection with the exercise of any other NCA function. For example, information obtained in the course of gathering criminal intelligence may be used in connection with NCA's crime reduction function.
165. *Subsection (4)* provides that the NCA may disclose information in connection with the exercise of any NCA function if the disclosure is for any "permitted purpose". The term "permitted purpose" is defined in section 16(1). This would apply in situations where, for example, the NCA has received information on suspected criminal activity (such as a 'Suspicious Activity Report' – which help banks and financial institutions protect themselves and their reputation from criminals and help law enforcement to track down and arrest them) and has decided to share this information with an organisation or person outside the NCA (such as a financial institution) for the purpose of preventing or detecting crime.
166. *Subsection (5)* makes it clear that *subsection (4)* only authorises an NCA officer to disclose information obtained under Part 6 of the POCA for the purpose of: the exercise of the functions of the Lord Advocate under Part 3 of the POCA (Scottish confiscation); the exercise of functions by Scottish Ministers under or in relation to Part 5 of the POCA (civil recovery to the proceeds of crime etc).
167. *Subsection (6)* provides that an NCA officer may not disclose information obtained by the NCA under Part 6 of the POCA (revenue functions) under *subsection (4)*. An NCA officer may only disclose information obtained under Part 6 of the POCA in accordance with the provisions set out in *subsection (7)*.
168. *Subsection (7)* provides that an NCA officer may disclose information obtained under Part 6 of the POCA if the disclosure is to the Commissioners for Revenue and Customs; to the Lord Advocate for the purpose of specified functions; to any person for the

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

purpose of civil proceedings which relate to a matter in respect of which the NCA has functions; or to any person in compliance with an order of a court or tribunal.

169. *Subsection (8)* provides that a disclosure of information in accordance with Part 1 of the Act does not breach any obligation of confidence owed by the person making the disclosure or any other restriction on the disclosure of information however imposed (including any statutory restrictions other than those set out in Schedule 7 to the Act). In practice, this provision allows the police, law enforcement agencies, banks and other financial institutions to share information with the NCA and vice versa about organised crime activity, which could involve the disclosure of personal banking records.