

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: The National Crime Agency

Schedule 5: Police, customs and immigration powers

Part 4: Designations: powers and privileges of constables

196. *Paragraph 10* provides that where the Director General is designated with police powers and privileges, the Director General has in England and Wales and adjacent UK waters all the powers and privileges of an English and Welsh constable and outside the UK and UK waters, all the powers and privileges of a constable that are exercisable overseas. The exercise of police powers is subject to any limitations in the designation.
197. *Paragraph 11* further provides that where an NCA officer (other than the Director General) is designated with police powers and privileges, the NCA officer has: in England and Wales and adjacent UK waters, all the powers and privileges of an English and Welsh constable; in Scotland and the adjacent UK waters, all the powers and privileges of a Scottish constable; in Northern Ireland and the adjacent UK waters, all the powers and privileges of a Northern Ireland constable; and outside the UK and UK waters, all the powers and privileges of a constable that are exercisable overseas (*sub-paragraph (1)*). The exercise of police powers is subject to any limitations in the designation. Furthermore, the exercise of the powers and privileges of a constable in Scotland and Northern Ireland are subject to further requirements by virtue of *sub-paragraphs (3) and (6)*.
198. *Paragraph 11* further provides that the powers and privileges of a Scottish constable are exercisable by an NCA officer if a Scottish general authorisation is in force between the Scottish Ministers and the Director General (*sub-paragraph (4)*). *Sub-paragraph (5)* provides that the powers and privileges of a Scottish constable are exercisable by an NCA officer if a Scottish operational authorisation (that is an agreement between the Director General and an officer of the Police Service of Scotland not below the rank of Assistant Chief Constable) is in force in relation to a particular operation. *Sub-paragraph (7)* provides that the powers and privileges of a Northern Ireland constable are exercisable by an NCA officer only if a Northern Ireland general authorisation is in force between the Department of Justice in Northern Ireland and the Director General. *Sub-paragraph (8)* provides that the powers and privileges of a Northern Ireland constable are exercisable by an NCA officer if a Northern Ireland operational authorisation (that is an agreement between the Director General and an officer of the Police Service of Northern Ireland not below the rank of Assistant Chief Constable) is in force in relation to a particular operation. A Northern Ireland operational authorisation must conform with a Northern Ireland general authorisation.
199. *Paragraph 12* provides that the exercise of the powers of a constable by the Director General or other designated NCA officer is subject to the same territorial restrictions as a constable exercising those powers. *Paragraph 13* applies to an enactment if it

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

provides for the issuing of warrants which authorise a constable to exercise any power or privilege of a constable. The paragraph further provides that for the purpose of enabling a designated officer to exercise his or her powers or privileges the enactment has effect as if the designated officer were a constable.

200. *Paragraph 14* provides that when exercising direction and control of the NCA in relation to the exercise by NCA officers of the powers and privileges of a Scottish constable, the Director General must comply with instructions given by the Lord Advocate or procurator fiscal in relation to the investigation of offences.
201. *Paragraph 15* provides that those NCA officers designated with policing powers and privileges will not be regarded as being in police service for the purposes of certain specified employment legislation.