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STATUTORY INSTRUMENTS

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**2014 No. 1704**

**NATIONAL CRIME AGENCY**

**The Crime and Courts Act 2013 (Application and  
Modification of Certain Enactments) Order 2014**

<i>Made</i>	- - - -	<i>30th June 2014</i>
<i>Laid before Parliament</i>		<i>3rd July 2014</i>
<i>Coming into force</i>	- -	<i>4th August 2014</i>

The Secretary of State makes the following Order in exercise of the powers conferred by paragraphs 27(1)(b), 27(2) and 29 of Schedule 5, and paragraph 7(1)(b) of Schedule 8, to the Crime and Courts Act 2013(1):

**PART 1**

**GENERAL**

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the Crime and Courts Act 2013 (Application and Modification of Certain Enactments) Order 2014 and comes into force on 4th August 2014.

(2) In this Order—

“the 2013 Act” means the Crime and Courts Act 2013;

“NCA” means the National Crime Agency.

**PART 2**

**DESIGNATION WITH THE POWERS AND PRIVILEGES OF A CONSTABLE**

**Interpretation of Part 2**

**2.** In this Part “designated person” means a NCA officer designated as a person having the powers and privileges of a constable under section 9(2)(a) or 10(1)(a) of the 2013 Act.

### **Application of the Police and Criminal Evidence Act 1984 to designated persons**

3. The Police and Criminal Evidence Act 1984(2) 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 Schedule 1.

### **Application of the Anti-social Behaviour Act 2003 to designated persons**

- 4.—(1) Part 1 of the Anti-social Behaviour Act 2003 (premises where drugs are used unlawfully)(3) 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 this article.

(2) In sections 1(1) (closure notice) and 5(2) (extension and discharge of closure order) for “a police officer not below the rank of superintendent” substitute “a designated person not below grade 2”.

- (3) For section 9(2) (exemption from liability for certain damages) substitute—

“(2) The National Crime Agency is not liable for relevant damages in respect of anything done or omitted to be done by a designated person under its direction or control in the performance or purported performance of the designated person’s functions (by virtue of Part 4 of Schedule 5 to the Crime and Courts Act 2013) under this Part.”.

- (4) After section 11(10) (interpretation) insert—

“(10A) In this Part “designated person” means a NCA officer designated as a person having the powers and privileges of a constable under section 9(2)(a) or 10(1)(a) of the Crime and Courts Act 2013.”.

### **Application of the Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) Order 2013 to the NCA**

- 5.—(1) The Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) Order 2013(4) applies with the modifications set out in this article.

(2) In article 5(b)(i) for “the police”, in the first place, substitute “a NCA officer designated as a person having the powers and privileges of a constable under section 9(2)(a) or 10(1)(a) of the Crime and Courts Act 2013” and in the second place substitute “the designated person”.

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(2) [1984 c.60](#), applied with modifications by [S.I. 2006/987](#); there are other instruments which apply provisions of the Act with modifications but none are relevant to this Order. Amendments relevant to this Order were made by the Protection of Freedoms Act 2012 (c. 9).

(3) [2003 c.38](#).

(4) [S.I. 2013/1813](#), to which there are amendments not relevant to this Order.

## PART 3

### DESIGNATION WITH THE POWERS OF AN IMMIGRATION OFFICER

#### Interpretation of Part 3

6. In this Part “designated person” means a NCA officer designated as a person having the powers of an immigration officer under section 9(2)(c) or 10(1)(c) of the 2013 Act.

#### Application of the Immigration Act 1971 to designated persons

7. The Immigration Act 1971(5) 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 Schedule 2.

#### Application of the Immigration and Asylum Act 1999 to designated persons

8.—(1) The Immigration and Asylum Act 1999(6) 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 this article.

(2) In section 141(11) and (12)(b) (fingerprinting) for “chief immigration officer” substitute “designated person who is grade 4”.

(3) In section 143(11) and (12) (destruction of fingerprints) for “Secretary of State” substitute “Director General of the National Crime Agency”.

(4) In section 167(1) (interpretation) after the definition of “country” insert—

““designated person” means a NCA officer designated as a person having the powers of an immigration officer under section 9(2)(c) or 10(1)(c) of the Crime and Courts Act 2013;”.

## PART 4

### REVOCATION AND CONSEQUENTIAL AMENDMENTS

9. The Serious Organised Crime and Police Act 2005 (Application and Modification of Certain Enactments to Designated Staff of SOCA) Order 2006(7) is revoked.

30th June 2014

*Karen Bradley*  
Parliamentary Under Secretary of State  
Home Office

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(5) 1971 c.77, applied with modifications by S.I. 2006/987; there are other instruments which apply and extend provisions of the Act with modifications but none are relevant to this Order.

(6) 1999 c.33.

(7) S.I. 2006/987.

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## SCHEDULE 1

Article 3

Modifications in the application of the Police and Criminal Evidence Act 1984 to designated persons

1. Except where the contrary intention appears, any reference in the Police and Criminal Evidence Act 1984 to “police officer” or “officer” (in the context of a police officer) is read as, or including, a reference to a designated person.
2. In section 2 (provisions relating to search under section 1 and other powers)—
  - (a) for subsection (2)(i) substitute—
 

“(i) documentary evidence that he is a designated person; and”;
  - (b) in subsection (2)(ii) omit “whether he is in a uniform or not,”;
  - (c) in subsections (3)(a) and (6)(b) for “of the police station” substitute “and location of the NCA office”;
  - (d) in subsection (6)(c) for “police station” substitute “NCA office”.
3. Omit section 4 (road checks).
4. In section 16 (execution of warrants)—
  - (a) in subsections (3A) and (3B) for “police officer of at least the rank of inspector” substitute “designated person of at least grade 3”;
  - (b) in subsection (5)(a) for “, if not in uniform, shall produce to him documentary evidence that he is a constable” substitute “shall produce to him documentary evidence that he is a designated person”.
5. For section 17(3) (entry for the purpose of arrest etc) substitute—
 

“(3) The powers of entry and search conferred by this section shall not be exercisable for the purposes specified in subsection (1)(c)(ii), (iv) or (vi) by a designated person.”.
6. In section 18(4) and (6) (entry and search after arrest) for “an officer of the rank of inspector or above” substitute “a designated person of at least grade 3”.
7. In section 21(3)(b) (access and copying) for “police” substitute “National Crime Agency”.
8. In section 22(6) (retention) for “police” substitute “National Crime Agency”.
9. In section 29 (voluntary attendance at police station etc) after “police station” (at each place) insert “, NCA office”.
10. In section 41 (limits on period of detention without charge)—
  - (a) omit subsections (2)(a), (3) and (5);
  - (b) for subsection 2(b)(i) substitute—
 

“the time at which that person arrives at the first police station to which he is taken in England or Wales; or”;
  - (c) in subsection (2)(d) omit “, except where subsection (5) below applies.”.
11. In section 43(7)(b) (warrants of further detention) for “police” substitute “National Crime Agency”.
12. In section 61 (fingerprinting)—
  - (a) in subsections (3)(b), (3A), (4)(b), (5A)(a) and (5B)(a) for “police” substitute “National Crime Agency”;
  - (b) in subsections (6ZB) and (6F) for “the rank of inspector” substitute “grade 3”.

**13.** In section 61A(3)(b) and (4) (impressions of footwear) for “police” substitute “National Crime Agency”.

**14.** In section 62(1)(a), (1A)(a) and (2A)(b) (intimate samples) for “police officer of at least the rank of inspector” substitute “designated person who is at least grade 3”.

**15.** In section 63 (other samples)—

(a) in subsections (2C)(a), (3ZA)(a) and (3A)(a) for “police” substitute “National Crime Agency”;

(b) in subsections (3BB) and (3G) for “of at least the rank of inspector” substitute “who is at least grade 3”.

**16.** In section 63AB(3) (National DNA Database Strategy Board) for “A chief officer of a police force in England and Wales” substitute “The Director General of the National Crime Agency”.

**17.** In section 63B(10) (testing for presence of Class A drugs) in the definition of “appropriate adult” for “police officer or a person employed by the police” substitute “police officer, person employed by the police or a NCA officer”.

**18.** In section 63D (destruction of fingerprints and DNA profiles)—

(a) in subsection (1) for “police” substitute “National Crime Agency”;

(b) in subsections (2) and (5) for “responsible chief officer of police” substitute “Director General of the National Crime Agency”.

**19.** In section 63F(7) and (10)(a) (retention of section 63D material: persons arrested for or charged with a qualifying offence) for “responsible chief officer of police” substitute “Director General of the National Crime Agency”.

**20.** In section 63G(1), (2), (3), (6) and (8) (retention of section 63D material by virtue of section 63F(5)) for “responsible chief officer of police” substitute “Director General of the National Crime Agency”.

**21.** In section 63M(1) and (2) (retention of section 63D material for purposes of national security) for “responsible chief officer of police” substitute “Director General of the National Crime Agency”.

**22.** In section 63Q(2) (destruction of copies of section 63D material) for “police” substitute “National Crime Agency”.

**23.** In section 63R (destruction of samples)—

(a) in subsection (1) for “police” substitute “National Crime Agency”;

(b) in subsections (2), (6), (9) and (13) for “responsible chief officer of police” substitute “Director General of the National Crime Agency”.

**24.** In section 63S (destruction of impressions of footwear) for “police” substitute “National Crime Agency”.

**25.** In section 77(3) (confessions by mentally handicapped persons) in the definition of “independent person” insert at the end “or a NCA officer”.

**26.** In section 118 (general interpretation) after the definition of—

(a) “designated police station” insert—

““designated person” means a NCA officer designated as a person having the powers and privileges of a constable under section 9(2)(a) or 10(1)(a) of the Crime and Courts Act 2013;”;

(b) “item subject to legal privilege” insert—

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““NCA office” means a place for the time being occupied by the National Crime Agency;”.

27. In Schedule 2A (fingerprinting and samples)—
- (a) after “police station” (in each place) insert “or NCA office”;
  - (b) in paragraphs 3(4) and 11(4) at the end insert “or where the offence was investigated by the NCA, a designated person”;
  - (c) in paragraphs 6(1), 14(1) and 16(3)(b) for “of at least the rank of inspector” substitute “who is at least grade 3”.

## SCHEDULE 2

Article 7

Modifications in the application of the Immigration Act 1971 to designated persons

1. In section 28C(4)(8)(search and arrest without warrant) for “identification showing that he is an immigration officer” substitute “documentary evidence showing that he is a designated person”.
2. In section 28CA(9) (business premises: entry to arrest)—
  - (a) in subsection (2)—
    - (i) in paragraph (c) for “Secretary of State (in the case of an immigration officer)” substitute “Director General of the NCA (in the case of a designated person)”;
    - (ii) in paragraph (d) omit “or immigration officer” and at the end insert “or the designated person produces documentary evidence showing his status”;
  - (b) in subsection (3)(a) from “Secretary” to the end substitute “Director General of the NCA only by a designated person of at least grade 3, and ”;
  - (c) in subsection (4)(a) omit “or immigration officer” and after “identification” insert “or the designated person is asked to produce documentary evidence showing that he is a designated person”.
3. In section 28F(8)(10)(entry and search of premises following arrest under section 25, 25A or 25B) for “an immigration officer not below the rank of chief immigration officer” substitute “a designated person not below grade 4”.
4. In section 28FA(11) (search for personnel records: warrants unnecessary)—
  - (a) in subsection (4)(b) omit “or immigration officer” and after “status” insert “or designated person produces documentary evidence showing that he is a designated person”;
  - (b) in subsection (6)(a) omit “or immigration officer” and after “identification” insert “or a designated person is asked to produce documentary evidence showing that he is a designated person”.
5. In section 28K(4)(a)(12) (execution of warrants) for “identification showing that he is an immigration officer” substitute “documentary evidence showing that he is a designated person”.
6. In section 33 (interpretation) after the definition of—
  - (a) “crew” insert—

(8) Section 28C was inserted by section 130 of the Immigration and Asylum Act 1999 (c.33).

(9) Section 28CA was inserted by section 153(1) of the Nationality, Immigration and Asylum Act 2002 (c.41).

(10) Section 28F was inserted by section 133 of the Immigration and Asylum Act 1999 (c.33).

(11) Section 28FA was inserted by section 154 of the Nationality, Immigration and Asylum Act 2002 (c.41).

(12) Section 28K was inserted by section 138 of the Immigration and Asylum Act 1999 (c.33).

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““designated person” means a NCA officer designated as a person having the powers of an immigration officer under section 9(2)(c) or 10(1)(c) of the Crime and Courts Act 2013;”;

(b) “limited leave” and “indefinite leave” insert—

““NCA” means the National Crime Agency formed under section 1 of the Crime and Courts Act 2013;”.

7. In Schedule 2 (administrative provisions as to control on entry etc)—

- (a) in paragraph 1(5) omit “for the purpose of satisfying himself whether there are persons he may wish to examine under paragraph 2 below” and at the end insert “for the purpose of ascertaining whether there is any person who may be required to submit to examination under paragraph 2 below”;
- (b) in paragraph 22(1A)(13) for “An immigration officer not below the rank of chief immigration officer” substitute “A designated person not below grade 4”;
- (c) in paragraphs 25A(10)(14) and 27C(8)(15) for “an immigration officer not below the rank of chief immigration officer” substitute “a designated person not below grade 4”.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Under sections 9(2) and 10(1) of the Crime and Courts Act 2013 a NCA officer can be designated as a person having the powers and privileges of a constable, the customs powers of an officer of Revenue and Customs and the powers of an immigration officer. This Order modifies the application of certain enactments which confer powers on the police (as well as constables) and immigration officers to enable such powers to be exercised by designated NCA officers.

Part 2 of this Order modifies the application of the Police and Criminal Evidence Act 1984, the Anti-social Behaviour Act 2003 and the Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data)(Transitional, Transitory and Saving Provisions) Order 2013 in relation to NCA officers designated as persons with the powers and privileges of a constable.

Part 3 of this Order modifies the application of the Immigration Act 1971 and the Immigration and Asylum Act 1999 in relation to NCA officers designated as persons with the powers of an immigration officer.

Part 4 of this Order revokes the Serious Organised Crime and Police Act 2005 (Application and Modification of Certain Enactments to Designated Staff of SOCA) Order 2006.

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

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(13) Paragraph 22(1A) was inserted by section 12(1) of, and paragraph 11(1) of Schedule 2 to, the Asylum and Immigration Act 1996 (c.49).

(14) Paragraph 25A was inserted by section 132(2) of the Immigration and Asylum Act 1999 (c.33).

(15) Paragraph 27C was inserted by section 19 of the Immigration and Asylum Act 1999 (c.33).