



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 8

OVERSIGHT ARRANGEMENTS

CHAPTER 1

INVESTIGATORY POWERS COMMISSIONER AND OTHER JUDICIAL COMMISSIONERS

Supplementary provision

238 Funding, staff and facilities etc.

- (1) There is to be paid to the Judicial Commissioners out of money provided by Parliament such remuneration and allowances as the Treasury may determine.
- (2) The Secretary of State must, after consultation with the Investigatory Powers Commissioner and subject to the approval of the Treasury as to numbers of staff, provide the Judicial Commissioners with—
 - (a) such staff, and
 - (b) such accommodation, equipment and other facilities and services,as the Secretary of State considers necessary for the carrying out of the Commissioners' functions.
- (3) The Scottish Ministers may pay to the Judicial Commissioners such allowances as the Scottish Ministers consider appropriate in respect of the exercise by the Commissioners of functions which relate to the exercise by Scottish public authorities of devolved functions.
- (4) In subsection (3)—

“devolved function” means a function that does not relate to reserved matters (within the meaning of the Scotland Act 1998), and

Status: Point in time view as at 30/09/2021.

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“Scottish public authority” has the same meaning as in the Scotland Act 1998.

- (5) The Investigatory Powers Commissioner or any other Judicial Commissioner may, to such extent as the Commissioner concerned may decide, delegate the exercise of functions of that Commissioner to any member of staff of the Judicial Commissioners or any other person acting on behalf of the Commissioners.
- (6) Subsection (5) does not apply to—
- (a) the function of the Investigatory Powers Commissioner of making a recommendation under section 227(4)(e) or making an appointment under section 247(1),
 - (b) any function which falls within section 229(8), or
 - (c) any function under section 58(4) or 133(3) of authorising a disclosure,
- but, subject to this and the terms of the delegation, does include functions which have been delegated to a Judicial Commissioner by the Investigatory Powers Commissioner.
- (7) The delegation under subsection (5) to any extent of functions by the Investigatory Powers Commissioner or any other Judicial Commissioner does not prevent the exercise of the functions to that extent by the Commissioner concerned.

Commencement Information

- I1** S. 238(1)-(5)(6)(a)(7) in force at 13.2.2017 by [S.I. 2017/137, reg. 2\(l\)](#)
- I2** S. 238(6)(b)(c) in force at 25.7.2018 by [S.I. 2018/873, reg. 2\(w\)](#)

239 Power to modify functions

- (1) The Secretary of State may by regulations modify the functions of the Investigatory Powers Commissioner or any other Judicial Commissioner.
- (2) But such regulations may not modify any function conferred by virtue of this Act on a Judicial Commissioner to approve, quash or cancel—
- (a) an authorisation or warrant, or
 - (b) the variation or renewal of an authorisation or warrant.
- (3) The power to make regulations under this section (including that power as extended by section 267(1)(c)) may, in particular, be exercised by modifying any provision made by or under an enactment (including this Act).

Commencement Information

- I3** [S. 239](#) in force at 13.2.2017 by [S.I. 2017/137, reg. 2\(m\)](#)

240 Abolition of existing oversight bodies

- (1) The offices of the following are abolished—
- (a) the Interception of Communications Commissioner,
 - (b) the Intelligence Services Commissioner,
 - (c) the Chief Surveillance Commissioner,

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- (d) the other Surveillance Commissioners,
 - (e) the Scottish Chief Surveillance Commissioner, and
 - (f) the other Scottish Surveillance Commissioners.
- (2) Accordingly, the following enactments are repealed—
- (a) sections 57 and 58 of the Regulation of Investigatory Powers Act 2000 (the Interception of Communications Commissioner),
 - (b) sections 59, 59A and 60 of that Act (the Intelligence Services Commissioner),
 - (c) sections 62 and 63 of that Act and sections 91 and 107 of the Police Act 1997 (the Surveillance Commissioners), and
 - (d) sections 2(1) to (9), 3 and 4 of the Regulation of Investigatory Powers (Scotland) Act 2000 (2000 asp 11) (the Scottish Surveillance Commissioners).
- (3) The Secretary of State may by regulations, with the consent of the Northern Ireland Assembly, provide for the abolition of the office of the Investigatory Powers Commissioner for Northern Ireland.
- (4) The power to make regulations under subsection (3) (including that power as extended by section 267(1)(c)) may, in particular, be exercised by modifying any provision made by or under an enactment (including this Act).
- (5) Regulations made by virtue of subsection (4) may, in particular, repeal—
- (a) section 61 of the Regulation of Investigatory Powers Act 2000 (the Investigatory Powers Commissioner for Northern Ireland), and
 - (b) the words “or the Investigatory Powers Commissioner for Northern Ireland” in section 229(4)(f) of this Act.
- (6) In this section—
- “the Chief Surveillance Commissioner” means the Chief Commissioner appointed under section 91(1)(a) of the Police Act 1997,
- “the other Scottish Surveillance Commissioners” means—
- (a) the Surveillance Commissioners appointed under section 2(1)(b) of the Regulation of Investigatory Powers (Scotland) Act 2000, and
 - (b) the Assistant Surveillance Commissioners appointed under section 3 of that Act,
- “the other Surveillance Commissioners” means—
- (a) the Commissioners appointed under section 91(1)(b) of the Police Act 1997, and
 - (b) the Assistant Surveillance Commissioners appointed under section 63(1) of the Regulation of Investigatory Powers Act 2000,
- “the Scottish Chief Surveillance Commissioner” means the Chief Surveillance Commissioner appointed under section 2(1)(a) of the Regulation of Investigatory Powers (Scotland) Act 2000.

Commencement Information

I4 S. 240 in force at 1.9.2017 by S.I. 2017/859, reg. 2(i) (with regs. 6-11)

Status:

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