



# Justice and Security Act 2013

## 2013 CHAPTER 18

### PART 1

#### OVERSIGHT OF INTELLIGENCE AND SECURITY ACTIVITIES

##### *Oversight by the Intelligence and Security Committee of Parliament*

### **1 The Intelligence and Security Committee of Parliament**

- (1) There is to be a body known as the Intelligence and Security Committee of Parliament (in this Part referred to as “the ISC”).
- (2) The ISC is to consist of nine members who are to be drawn both from the members of the House of Commons and from the members of the House of Lords.
- (3) Each member of the ISC is to be appointed by the House of Parliament from which the member is to be drawn.
- (4) A person is not eligible to become a member of the ISC unless the person—
  - (a) is nominated for membership by the Prime Minister, and
  - (b) is not a Minister of the Crown.
- (5) Before deciding whether to nominate a person for membership, the Prime Minister must consult the Leader of the Opposition.
- (6) A member of the ISC is to be the Chair of the ISC chosen by its members.
- (7) Schedule 1 (which makes further provision about the ISC) has effect.

### **2 Main functions of the ISC**

- (1) The ISC may examine or otherwise oversee the expenditure, administration, policy and operations of—
  - (a) the Security Service,
  - (b) the Secret Intelligence Service, and

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- (c) the Government Communications Headquarters.
- (2) The ISC may examine or otherwise oversee such other activities of Her Majesty's Government in relation to intelligence or security matters as are set out in a memorandum of understanding.
- (3) The ISC may, by virtue of subsection (1) or (2), consider any particular operational matter but only so far as—
  - (a) the ISC and the Prime Minister are satisfied that the matter—
    - (i) is not part of any ongoing intelligence or security operation, and
    - (ii) is of significant national interest,
  - (b) the Prime Minister has asked the ISC to consider the matter, or
  - (c) the ISC's consideration of the matter is limited to the consideration of information provided voluntarily to the ISC (whether or not in response to a request by the ISC) by—
    - (i) the Security Service,
    - (ii) the Secret Intelligence Service,
    - (iii) the Government Communications Headquarters, or
    - (iv) a government department.
- (4) The ISC's consideration of a particular operational matter under subsection (3)(a) or (b) must, in the opinion of the ISC and the Prime Minister, be consistent with any principles set out in, or other provision made by, a memorandum of understanding.
- (5) A memorandum of understanding under this section—
  - (a) may include other provision about the ISC or its functions which is not of the kind envisaged in subsection (2) or (4),
  - (b) must be agreed between the Prime Minister and the ISC, and
  - (c) may be altered (or replaced with another memorandum) with the agreement of the Prime Minister and the ISC.
- (6) The ISC must publish a memorandum of understanding under this section and lay a copy of it before Parliament.

### **3 Reports of the ISC**

- (1) The ISC must make an annual report to Parliament on the discharge of its functions.
- (2) The ISC may make such other reports to Parliament as it considers appropriate concerning any aspect of its functions.
- (3) Before making a report to Parliament, the ISC must send it to the Prime Minister.
- (4) The ISC must exclude any matter from any report to Parliament if the Prime Minister, after consultation with the ISC, considers that the matter would be prejudicial to the continued discharge of the functions of the Security Service, the Secret Intelligence Service, the Government Communications Headquarters or any person carrying out activities falling within section 2(2).
- (5) A report by the ISC to Parliament must contain a statement as to whether any matter has been excluded from the report by virtue of subsection (4).
- (6) The ISC must lay before Parliament any report made by it to Parliament.

- (7) The ISC may make a report to the Prime Minister in relation to matters which would be excluded by virtue of subsection (4) if the report were made to Parliament.

#### **4 Sections 1 to 3 and Schedule 1: interpretation**

In sections 1 to 3 and Schedule 1—

“government department” means a department of Her Majesty’s Government but does not include—

- (a) the Security Service,
- (b) the Secret Intelligence Service, or
- (c) the Government Communications Headquarters,

“Her Majesty’s forces” has the same meaning as in the Armed Forces Act 2006,

“Her Majesty’s Government” means Her Majesty’s Government in the United Kingdom,

“Leader of the Opposition” has the same meaning as in the Ministerial and other Salaries Act 1975,

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975,

“notice” means notice in writing.

*Oversight by the Intelligence Services Commissioner*

#### **5 Additional review functions of the Commissioner**

After section 59 of the Regulation of Investigatory Powers Act 2000 (Intelligence Services Commissioner) insert—

##### **“59A Additional functions of the Intelligence Services Commissioner**

- (1) So far as directed to do so by the Prime Minister and subject to subsection (2), the Intelligence Services Commissioner must keep under review the carrying out of any aspect of the functions of—
  - (a) an intelligence service,
  - (b) a head of an intelligence service, or
  - (c) any part of Her Majesty’s forces, or of the Ministry of Defence, so far as engaging in intelligence activities.
- (2) Subsection (1) does not apply in relation to anything which is required to be kept under review by the Interception of Communications Commissioner or under section 59.
- (3) The Prime Minister may give a direction under this section at the request of the Intelligence Services Commissioner or otherwise.
- (4) Directions under this section may, for example, include directions to the Intelligence Services Commissioner to keep under review the implementation or effectiveness of particular policies of the head of an intelligence service regarding the carrying out of any of the functions of the intelligence service.

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- (5) The Prime Minister must publish, in a manner which the Prime Minister considers appropriate, any direction under this section (and any revocation of such a direction) except so far as it appears to the Prime Minister that such publication would be contrary to the public interest or prejudicial to—
- (a) national security,
  - (b) the prevention or detection of serious crime,
  - (c) the economic well-being of the United Kingdom, or
  - (d) the continued discharge of the functions of any public authority whose activities include activities that are subject to review by the Intelligence Services Commissioner.
- (6) In this section “head”, in relation to an intelligence service, means—
- (a) in relation to the Security Service, the Director-General,
  - (b) in relation to the Secret Intelligence Service, the Chief, and
  - (c) in relation to GCHQ, the Director.”