



# Regulation of Investigatory Powers (Scotland) Act 2000

2000 asp 11

## *Surveillance Commissioners*

### **2 Surveillance Commissioners**

- (1) The Scottish Ministers shall appoint for the purposes of this Act—
  - (a) a Chief Surveillance Commissioner; and
  - (b) such number of other Surveillance Commissioners as the Scottish Ministers think fit.
- (2) The persons appointed under subsection (1) above shall be persons who hold or have held high judicial office within the meaning of the Appellate Jurisdiction Act 1876 (c. 59).
- (3) Subject to subsections (4) to (7) below, each Surveillance Commissioner shall hold and vacate office in accordance with the terms of his appointment.
- (4) Each Surveillance Commissioner shall be appointed for a term of three years.
- (5) A person who ceases to be a Surveillance Commissioner (otherwise than under subsection (7) below) may be reappointed under this section.
- (6) Subject to subsection (7) below, a Surveillance Commissioner shall not be removed from office before the end of the term for which that Commissioner is appointed unless a resolution approving the removal has been passed by the Scottish Parliament.
- (7) A Surveillance Commissioner may be removed from office by the Scottish Ministers if after his appointment—
  - (a) a bankruptcy order is made against the Commissioner or the Commissioner's estate is sequestrated or the Commissioner makes a composition or arrangement with, or grants a trust deed for, the Commissioner's creditors;
  - (b) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or Part II of the Companies (Northern Ireland) Order 1989 (S.I.1989/2404 (N.I.18)), or an order under section 429(2)(b) (failure to pay under county court administration order) of the Insolvency Act 1986 (c. 45), is made against the Commissioner; or

- (c) the Commissioner is convicted in the United Kingdom, the Channel Islands or the Isle of Man of an offence and is sentenced to imprisonment (whether suspended or not).
- (8) The Scottish Ministers shall pay to each Surveillance Commissioner such allowances as the Scottish Ministers consider appropriate.
- (9) The Scottish Ministers may, after consultation with the Chief Surveillance Commissioner, provide the Commissioners with such staff as the Scottish Ministers consider necessary for the discharge of the Commissioners' functions.
- (10) The decisions of the Chief Surveillance Commissioner or, subject to section 16 below, any other Surveillance Commissioner (including decisions as to jurisdiction) shall not be subject to appeal or liable to be questioned in any court.

### **3 Assistant Surveillance Commissioners**

- (1) The Scottish Ministers may, after consultation with the Chief Surveillance Commissioner as to numbers, appoint as Assistant Surveillance Commissioners such number of persons as the Scottish Ministers consider necessary (in addition to the ordinary Surveillance Commissioners) for the purpose of providing the Chief Surveillance Commissioner with assistance under this section.
- (2) A person shall not be appointed as an Assistant Surveillance Commissioner unless that person holds or has held office as—
  - (a) a sheriff;
  - (b) a judge of the Crown Court in England and Wales or a Circuit judge there; or
  - (c) a county court judge in Northern Ireland.
- (3) The Chief Surveillance Commissioner may require any ordinary Surveillance Commissioner or any Assistant Surveillance Commissioner to provide him with assistance in carrying out that Chief Surveillance Commissioner's functions under this Act.
- (4) The assistance that may be provided under this section includes—
  - (a) the conduct on behalf of the Chief Surveillance Commissioner of the review of any matter; and
  - (b) the making of a report to the Chief Surveillance Commissioner about the matter reviewed.
- (5) Subsections (3) to (8) of section 2 above apply in relation to a person appointed under this section as they apply in relation to a person appointed under that section.

### **4 Delegation of Commissioner's functions**

- (1) Anything authorised or required by or under this Act to be done by a relevant Commissioner may be done by any member of the staff of that Commissioner who is authorised for the purpose (whether generally or specifically) by that Commissioner.
- (2) In this section "relevant Commissioner" means any Surveillance Commissioner or Assistant Surveillance Commissioner.