

SCOTTISH BIOMETRICS COMMISSIONER ACT 2020

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Functions

Section 5: Duty to comply with directions

14. Section 5 requires the Commissioner to comply with any direction given by the SPCB in respect of the following: the location of the Commissioner's office; the sharing of staff, premises, resources or services with other public offices or bodies; the form and content of the Commissioner's annual report (which will cover relevant issues arising during the year, the Commissioner's activities during the year and any recommendations arising from that activity); and the process to be followed in appointing members of the advisory group established under section 33. Any such direction is to be made publicly available by the SPCB.
15. However, the Commissioner is only subject to possible control by the SPCB to the extent explicitly specified. Aside from these specified matters (which do not infringe upon the core job of having oversight of the use of biometric data for criminal justice and police purposes), the Commissioner is not an agent of the Crown and there is no general obligation to comply with directions. The Commissioner is therefore independent and is not subject to the general control of the Parliament, the Government, or the SPCB.