



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART IV

#### SCRUTINY ETC. OF INVESTIGATORY POWERS AND OF THE FUNCTIONS OF THE INTELLIGENCE SERVICES

##### *Commissioners*

#### **57 Interception of Communications Commissioner.**

- (1) The Prime Minister shall appoint a Commissioner to be known as the Interception of Communications Commissioner.
- (2) Subject to subsection (4), the Interception of Communications Commissioner shall keep under review—
  - (a) the exercise and performance by the Secretary of State of the powers and duties conferred or imposed on him by or under sections 1 to 11;
  - [<sup>F1</sup>(aa) the exercise and performance by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) of the powers and duties conferred or imposed on them by or under sections 5, 9 and 10;]
  - (b) the exercise and performance, by the persons on whom they are conferred or imposed, of the powers and duties conferred or imposed by or under Chapter II of Part I;
  - (c) the exercise and performance by the Secretary of State in relation to information obtained under Part I of the powers and duties conferred or imposed on him by or under Part III; and
  - (d) the adequacy of the arrangements by virtue of which—
    - (i) the duty which is imposed on the Secretary of State [<sup>F2</sup>or, the Scottish Ministers (by virtue of provision under section 63 of the Scotland Act 1998),] by section 15, and

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- (ii) so far as applicable to information obtained under Part I, the duties imposed by section 55,  
are sought to be discharged.
- (3) The Interception of Communications Commissioner shall give the Tribunal all such assistance (including his opinion as to any issue falling to be determined by the Tribunal) as the Tribunal may require—
- (a) in connection with the investigation of any matter by the Tribunal; or
  - (b) otherwise for the purposes of the Tribunal’s consideration or determination of any matter.
- (4) It shall not be the function of the Interception of Communications Commissioner to keep under review the exercise of any power of the Secretary of State to make, amend or revoke any subordinate legislation.
- (5) A person shall not be appointed under this section as the Interception of Communications Commissioner unless he holds or has held a high judicial office (within the meaning of the <sup>M1</sup>Appellate Jurisdiction Act 1876).
- (6) The Interception of Communications Commissioner shall hold office in accordance with the terms of his appointment; and there shall be paid to him out of money provided by Parliament such allowances as the Treasury may determine.
- (7) The Secretary of State, after consultation with the Interception of Communications Commissioner, shall—
- (a) make such technical facilities available to the Commissioner, and
  - (b) subject to the approval of the Treasury as to numbers, provide the Commissioner with such staff,
- as are sufficient to secure that the Commissioner is able properly to carry out his functions.
- (8) On the coming into force of this section the Commissioner holding office as the Commissioner under section 8 of the <sup>M2</sup>Interception of Communications Act 1985 shall take and hold office as the Interception of Communications Commissioner as if appointed under this Act—
- (a) for the unexpired period of his term of office under that Act; and
  - (b) otherwise, on the terms of his appointment under that Act.

#### Textual Amendments

- F1** S. 57(2)(aa) inserted (S.) (15.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 4(1), **Sch. 3 Pt. II para. 9(a)** (with art. 6)
- F2** Words in s. 57(2)(d)(i) inserted (S.) (15.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 4(1), **Sch. 3 Pt. II para. 9(b)** (with art. 6)

#### Commencement Information

- II** S. 57 wholly in force at 1.10.2007; s. 57 not in force at Royal Assent see s. 83(2); s. 57 except s. 57(2)(b)(c)(d)(ii) in force at 2.10.2000 by [S.I. 2000/2543](#), art. 3; s. 57(2)(b) in force at 5.1.2004 by [S.I. 2003/3140](#), art. 2(b); s. 57(2)(c)(d)(ii) in force at 1.10.2007 by [S.I. 2007/2196](#), art. 2

#### Marginal Citations

- M1** 1876 c. 59.

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M2 1985 c. 56.

## 58 Co-operation with and reports by s. 57 Commissioner.

- (1) It shall be the duty of—
- (a) every person holding office under the Crown,
  - [<sup>F3</sup>(b) every member of the staff of the Serious Organised Crime Agency,]
  - [<sup>F4</sup>(ba) every member of the Scottish Crime and Drug Enforcement Agency,]
  - (d) every person employed by or for the purposes of a police force,
  - (e) every person required for the purposes of section 11 to provide assistance with giving effect to an interception warrant,
  - (f) every person on whom an obligation to take any steps has been imposed under section 12,
  - (g) every person by or to whom an authorisation under section 22(3) has been granted,
  - (h) every person to whom a notice under section 22(4) has been given,
  - (i) every person to whom a notice under section 49 has been given in relation to any information obtained under Part I, and
  - (j) every person who is or has been employed for the purposes of any business of a person falling within paragraph (e), (f), (h) or (i),
- to disclose or provide to the Interception of Communications Commissioner all such documents and information as he may require for the purpose of enabling him to carry out his functions under section 57.
- (2) If it at any time appears to the Interception of Communications Commissioner—
- (a) that there has been a contravention of the provisions of this Act in relation to any matter with which that Commissioner is concerned, and
  - (b) that the contravention has not been the subject of a report made to the Prime Minister by the Tribunal,
- he shall make a report to the Prime Minister with respect to that contravention.
- (3) If it at any time appears to the Interception of Communications Commissioner that any arrangements by reference to which the duties imposed by sections 15 and 55 have sought to be discharged have proved inadequate in relation to any matter with which the Commissioner is concerned, he shall make a report to the Prime Minister with respect to those arrangements.
- (4) As soon as practicable after the end of each calendar year, the Interception of Communications Commissioner shall make a report to the Prime Minister with respect to the carrying out of that Commissioner's functions.
- (5) The Interception of Communications Commissioner may also, at any time, make any such other report to the Prime Minister on any matter relating to the carrying out of the Commissioner's functions as the Commissioner thinks fit.
- [<sup>F5</sup>(5A) The Interception of Communications Commissioner may also, at any time, make any such other report to the First Minister on any matter relating to the carrying out of the Commissioner's functions so far as they relate to the exercise by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) of their powers under sections 5, 9(1)(b) and (3), 10(1)(a) and (2) and 15(1) of this Act, as the Commissioner thinks fit.]

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- (6) The Prime Minister shall lay before each House of Parliament a copy of every annual report made by the Interception of Communications Commissioner under subsection (4), together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (7).
- [<sup>F6</sup>(6A) The Prime Minister shall send a copy of every annual report made by the Interception of Communications Commissioner under subsection (4) which he lays in terms of subsection (6), together with a copy of the statement referred to in subsection (6), to the First Minister who shall forthwith lay that copy report and statement before the Scottish Parliament.]
- (7) If it appears to the Prime Minister, after consultation with the Interception of Communications Commissioner [<sup>F7</sup>and if it appears relevant to do so, with the First Minister], that the publication of any matter in an annual report 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 that Commissioner,
- the Prime Minister may exclude that matter from the copy of the report as laid before each House of Parliament.

#### Textual Amendments

- F3** S. 58(1)(b) substituted (1.4.2006) for s. 58(1)(b)(c) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 150](#); [S.I. 2006/378](#), [art. 4\(1\)](#), [Sch. para. 10](#) (subject to [art. 4\(2\)-\(7\)](#))
- F4** S. 58(1)(ba) inserted (1.4.2007) by [The Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(Consequential Provisions and Modifications\) Order 2007 \(S.I. 2007/1098\)](#), arts. 1(3), 6, [Sch. para. 4\(13\)](#)
- F5** S. 58(5A) inserted (S.) (15.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 4(1), [Sch. 3 Pt. II para. 10\(a\)](#) (with [art. 6](#))
- F6** S. 58(6A) inserted (S.) (15.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 4(1), [Sch. 3 Pt. II para. 10\(b\)](#) (with [art. 6](#))
- F7** Words in s. 58(7) inserted (S.) (15.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 4(1), [Sch. 3 Pt. II para. 10\(c\)](#) (with [art. 6](#))

#### Commencement Information

- I2** S. 58 wholly in force at 1.10.2007; s. 58 not in force at Royal Assent see s. 83(2); s. 58 in force except s. 58(1)(g)(h)(i) and s. 58(1)(j) in respect of s. 58(1)(h)(i) at 2.10.2000 by [S.I. 2000/2543](#), [art. 3](#); s. 58(1)(g)(h)(j) in force at 5.1.2004 by [S.I. 2003/3140](#), [art. 2](#); s. 58(1)(i) in force at 1.10.2007 by [S.I. 2007/2196](#), [art. 2\(c\)](#)

## 59 Intelligence Services Commissioner.

- (1) The Prime Minister shall appoint a Commissioner to be known as the Intelligence Services Commissioner.
- (2) Subject to subsection (4), the Intelligence Services Commissioner shall keep under review, so far as they are not required to be kept under review by the Interception of Communications Commissioner—

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- (a) the exercise by the Secretary of State of his powers under sections 5 to 7 of <sup>F8</sup> or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) of their powers under sections 5 and 6(3) and (4) of <sup>M3</sup> the Intelligence Services Act 1994 (warrants for interference with wireless telegraphy, entry and interference with property etc.);
  - (b) the exercise and performance by the Secretary of State <sup>F9</sup> or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), in connection with or in relation to—
    - (i) the activities of the intelligence services, and
    - (ii) the activities in places other than Northern Ireland of the officials of the Ministry of Defence and of members of Her Majesty's forces, of the powers and duties conferred or imposed on him by Parts II and III of this Act <sup>F10</sup> or on them by Part II of this Act];
  - (c) the exercise and performance by members of the intelligence services of the powers and duties conferred or imposed on them by or under Parts II and III of this Act;
  - (d) the exercise and performance in places other than Northern Ireland, by officials of the Ministry of Defence and by members of Her Majesty's forces, of the powers and duties conferred or imposed on such officials or members of Her Majesty's forces by or under Parts II and III; and
  - (e) the adequacy of the arrangements by virtue of which the duty imposed by section 55 is sought to be discharged—
    - (i) in relation to the members of the intelligence services; and
    - (ii) in connection with any of their activities in places other than Northern Ireland, in relation to officials of the Ministry of Defence and members of Her Majesty's forces.
- (3) The Intelligence Services Commissioner shall give the Tribunal all such assistance (including his opinion as to any issue falling to be determined by the Tribunal) as the Tribunal may require—
    - (a) in connection with the investigation of any matter by the Tribunal; or
    - (b) otherwise for the purposes of the Tribunal's consideration or determination of any matter.
  - (4) It shall not be the function of the Intelligence Services Commissioner to keep under review the exercise of any power of the Secretary of State to make, amend or revoke any subordinate legislation.
  - (5) A person shall not be appointed under this section as the Intelligence Services Commissioner unless he holds or has held a high judicial office (within the meaning of the <sup>M4</sup> Appellate Jurisdiction Act 1876).
  - (6) The Intelligence Services Commissioner shall hold office in accordance with the terms of his appointment; and there shall be paid to him out of money provided by Parliament such allowances as the Treasury may determine.
  - (7) The Secretary of State shall, after consultation with the Intelligence Services Commissioner and subject to the approval of the Treasury as to numbers, provide him with such staff as the Secretary of State considers necessary for the carrying out of the Commissioner's functions.

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- (8) Section 4 of the <sup>M5</sup>Security Service Act 1989 and section 8 of the <sup>M6</sup>Intelligence Services Act 1994 (Commissioners for the purposes of those Acts) shall cease to have effect.
- (9) On the coming into force of this section the Commissioner holding office as the Commissioner under section 8 of the <sup>M7</sup>Intelligence Services Act 1994 shall take and hold office as the Intelligence Services Commissioner as if appointed under this Act—
- (a) for the unexpired period of his term of office under that Act; and
  - (b) otherwise, on the terms of his appointment under that Act.
- (10) Subsection (7) of section 41 shall apply for the purposes of this section as it applies for the purposes of that section.

#### Textual Amendments

- F8** Words in s. 59(2)(a) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 11(a)** (with art. 6)
- F9** Words in s. 59(2)(b) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 11(b)(i)** (with art. 6)
- F10** Words in s. 59(2)(b) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 11(b)(ii)** (with art. 6)

#### Commencement Information

- I3** S. 59 partly in force; s. 59 not in force at royal Assent see s. 83(2); s.59(1)(2)(a)(3)-(10) in force at 2.10.2000 and the rest of s. 59(2) in force at 2.10.2000 for certain purposes by S.I. 2000/2543, art. 3; s. 59(2)(b) in force in so far as not already in force by S.I. 2007/2196, **art. 2(d)**

#### Marginal Citations

- M3** 1994 c. 13.  
**M4** 1876 c. 59.  
**M5** 1989 c. 5.  
**M6** 1994 c. 13.  
**M7** 1994 c. 13.

## 60 Co-operation with and reports by s. 59 Commissioner.

- (1) It shall be the duty of—
- (a) every member of an intelligence service,
  - (b) every official of the department of the Secretary of State [<sup>F11</sup>and every member of staff of the Scottish Administration (by virtue of provision under section 63 of the Scotland Act 1998)], and
  - (c) every member of Her Majesty's forces,
- to disclose or provide to the Intelligence Services Commissioner all such documents and information as he may require for the purpose of enabling him to carry out his functions under section 59.
- (2) As soon as practicable after the end of each calendar year, the Intelligence Services Commissioner shall make a report to the Prime Minister with respect to the carrying out of that Commissioner's functions.

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- (3) The Intelligence Services Commissioner may also, at any time, make any such other report to the Prime Minister on any matter relating to the carrying out of the Commissioner's functions as the Commissioner thinks fit.
- [<sup>F12</sup>(3A) The Intelligence Services Commissioner may also, at any time, make any such other report to the First Minister on any matter relating to the carrying out of the Commissioner's functions so far as they relate to the exercise by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) of their powers under sections 5 and 6(3) and (4) of the Intelligence Services Act 1994 <sup>M8</sup> or under Parts I and II of this Act, as the Commissioner thinks fit.]
- (4) The Prime Minister shall lay before each House of Parliament a copy of every annual report made by the Intelligence Services Commissioner under subsection (2), together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (5).
- [<sup>F13</sup>(4A) The Prime Minister shall send a copy of every annual report made by the Intelligence Services Commissioner under subsection (2) which he lays in terms of subsection (4), together with a copy of the statement referred to in subsection (4), to the First Minister who shall forthwith lay that copy report and statement before the Scottish Parliament.]
- (5) If it appears to the Prime Minister, after consultation with the Intelligence Services Commissioner [<sup>F14</sup>and, if it appears relevant to do so, with the First Minister], that the publication of any matter in an annual report 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 that Commissioner,
- the Prime Minister may exclude that matter from the copy of the report as laid before each House of Parliament.
- (6) Subsection (7) of section 41 shall apply for the purposes of this section as it applies for the purposes of that section.

#### Textual Amendments

- F11** Words in s. 60(1)(b) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 12(a)** (with art. 6)
- F12** S. 60(3A) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 12(b)** (with art. 6)
- F13** S. 60(4A) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 12(c)** (with art. 6)
- F14** Words in s. 60(5) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 12(d)** (with art. 6)

#### Marginal Citations

- M8** 1994 c.13.

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## **61 Investigatory Powers Commissioner for Northern Ireland.**

- (1) The Prime Minister, after consultation with the First Minister and deputy First Minister in Northern Ireland, shall appoint a Commissioner to be known as the Investigatory Powers Commissioner for Northern Ireland.
- (2) The Investigatory Powers Commissioner for Northern Ireland shall keep under review the exercise and performance in Northern Ireland, by the persons on whom they are conferred or imposed, of any powers or duties under Part II which are conferred or imposed by virtue of an order under section 30 made by the Office of the First Minister and deputy First Minister in Northern Ireland.
- (3) The Investigatory Powers Commissioner for Northern Ireland shall give the Tribunal all such assistance (including his opinion as to any issue falling to be determined by the Tribunal) as the Tribunal may require—
  - (a) in connection with the investigation of any matter by the Tribunal; or
  - (b) otherwise for the purposes of the Tribunal’s consideration or determination of any matter.
- (4) It shall be the duty of—
  - (a) every person by whom, or on whose application, there has been given or granted any authorisation the function of giving or granting which is subject to review by the Investigatory Powers Commissioner for Northern Ireland,
  - (b) every person who has engaged in conduct with the authority of such an authorisation,
  - (c) every person who holds or has held any office, rank or position with the same public authority as a person falling within paragraph (a), and
  - (d) every person who holds or has held any office, rank or position with any public authority for whose benefit (within the meaning of Part II) activities which are or may be subject to any such review have been or may be carried out,
 to disclose or provide to that Commissioner all such documents and information as he may require for the purpose of enabling him to carry out his functions.
- (5) As soon as practicable after the end of each calendar year, the Investigatory Powers Commissioner for Northern Ireland shall make a report to the First Minister and deputy First Minister in Northern Ireland with respect to the carrying out of that Commissioner’s functions.
- (6) The First Minister and deputy First Minister in Northern Ireland shall lay before the Northern Ireland Assembly a copy of every annual report made by the Investigatory Powers Commissioner for Northern Ireland under subsection (5), together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (7).
- (7) If it appears to the First Minister and deputy First Minister in Northern Ireland, after consultation with the Investigatory Powers Commissioner for Northern Ireland, that the publication of any matter in an annual report would be contrary to the public interest or prejudicial to—
  - (a) the prevention or detection of serious crime, or
  - (b) the continued discharge of the functions of any public authority whose activities include activities that are subject to review by that Commissioner,
 they may exclude that matter from the copy of the report as laid before the Northern Ireland Assembly.



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- (8) A person shall not be appointed under this section as the Investigatory Powers Commissioner for Northern Ireland unless he holds or has held office in Northern Ireland—
- (a) in any capacity in which he is or was the holder of a high judicial office (within the meaning of the <sup>M9</sup>Appellate Jurisdiction Act 1876); or
  - (b) as a county court judge.
- (9) The Investigatory Powers Commissioner for Northern Ireland shall hold office in accordance with the terms of his appointment; and there shall be paid to him out of the Consolidated Fund of Northern Ireland such allowances as the Department of Finance and Personnel may determine.
- (10) The First Minister and deputy First Minister in Northern Ireland shall, after consultation with the Investigatory Powers Commissioner for Northern Ireland, provide him with such staff as they consider necessary for the carrying out of his functions.

#### Marginal Citations

M9 1876 c. 59.

## 62 Additional functions of Chief Surveillance Commissioner.

- (1) The Chief Surveillance Commissioner shall (in addition to his functions under the <sup>M10</sup>Police Act 1997) keep under review, so far as they are not required to be kept under review by the Interception of Communications Commissioner, the Intelligence Services Commissioner or the Investigatory Powers Commissioner for Northern Ireland—
- (a) the exercise and performance, by the persons on whom they are conferred or imposed, of the powers and duties conferred or imposed by or under Part II;
  - (b) the exercise and performance, by any person other than a judicial authority, of the powers and duties conferred or imposed, otherwise than with the permission of such an authority, by or under Part III; and
  - (c) the adequacy of the arrangements by virtue of which the duties imposed by section 55 are sought to be discharged in relation to persons whose conduct is subject to review under paragraph (b).
- (2) It shall not by virtue of this section be the function of the Chief Surveillance Commissioner to keep under review the exercise of any power of the Secretary of State to make, amend or revoke any subordinate legislation.
- (3) In this section “judicial authority” means—
- (a) any judge of the High Court or of the Crown Court or any Circuit Judge;
  - (b) any judge of the High Court of Justiciary or any sheriff;
  - (c) any justice of the peace;
  - (d) any county court judge or resident magistrate in Northern Ireland;
  - (e) any person holding any such judicial office as entitles him to exercise the jurisdiction of a judge of the Crown Court or of a justice of the peace.

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#### **Commencement Information**

**I4** S. 62 wholly in force at 1.10.2007; s. 62 not in force at Royal Assent see s. 82(2); s. 62(1)(a)(2)(3) in force at 25.9.2000 by S.I. 2000/2543, art. 2; s. 62(1)(b)(c) in force at 1.10.2007 by S.I. 2007/2196, art. 2(e)

#### **Marginal Citations**

**M10** 1997 c. 50.

### **63 Assistant Surveillance Commissioners.**

- (1) The Prime Minister may, after consultation with the Chief Surveillance Commissioner as to numbers, appoint as Assistant Surveillance Commissioners such number of persons as the Prime Minister considers 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 he holds or has held office as—
  - (a) a judge of the Crown Court or a Circuit judge;
  - (b) a sheriff in Scotland; or
  - (c) a county court judge in Northern Ireland.
- (3) The Chief Surveillance Commissioner may—
  - (a) require any ordinary Surveillance Commissioner or any Assistant Surveillance Commissioner to provide him with assistance in carrying out his functions under section 62(1); or
  - (b) require any Assistant Surveillance Commissioner to provide him with assistance in carrying out his equivalent functions under any Act of the Scottish Parliament in relation to any provisions of such an Act that are equivalent to those of Part II of 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 91 of the <sup>M11</sup>Police Act 1997 (Commissioners) apply in relation to a person appointed under this section as they apply in relation to a person appointed under that section.

#### **Marginal Citations**

**M11** 1997 c. 50.

### **64 Delegation of Commissioners' functions.**

- (1) Anything authorised or required by or under any enactment or any provision of an Act of the Scottish Parliament to be done by a relevant Commissioner may be done by any

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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 the Interception of Communications Commissioner, the Intelligence Services Commissioner, the Investigatory Powers Commissioner for Northern Ireland or any Surveillance Commissioner or Assistant Surveillance Commissioner.

**Status:**

Point in time view as at 01/10/2007.

**Changes to legislation:**

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