



# Investigatory Powers Act 2016

## 2016 CHAPTER 25

### PART 8

#### OVERSIGHT ARRANGEMENTS

#### CHAPTER 1

##### INVESTIGATORY POWERS COMMISSIONER AND OTHER JUDICIAL COMMISSIONERS

##### *Reports and investigation and information powers*

#### **234 Annual and other reports**

- (1) The Investigatory Powers Commissioner must, as soon as reasonably practicable after the end of each calendar year, make a report to the Prime Minister about the carrying out of the functions of the Judicial Commissioners.
- (2) A report under subsection (1) must, in particular, include—
  - (a) statistics on the use of the investigatory powers which are subject to review by the Investigatory Powers Commissioner (including the number of warrants or authorisations issued, given, considered or approved during the year),
  - (b) information about the results of such use (including its impact),
  - (c) information about the operation of the safeguards conferred by this Act in relation to items subject to legal privilege, confidential journalistic material and sources of journalistic information,
  - (d) information about the following kinds of warrants issued, considered or approved during the year—
    - (i) targeted interception warrants or targeted examination warrants of the kind referred to in section 17(2),
    - (ii) targeted equipment interference warrants relating to matters within paragraph (b), (c), (e), (f), (g) or (h) of section 101(1), and

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*Status: This is the original version (as it was originally enacted).*

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- (iii) targeted examination warrants under Part 5 relating to matters within any of paragraphs (b) to (e) of section 101(2),
  - (e) information about the operational purposes specified during the year in warrants issued under Part 6 or 7,
  - (f) the information on errors required by virtue of section 231(8),
  - (g) information about the work of the Technology Advisory Panel,
  - (h) information about the funding, staffing and other resources of the Judicial Commissioners, and
  - (i) details of public engagements undertaken by the Judicial Commissioners or their staff.
- (3) The Investigatory Powers Commissioner must, at any time, make any report to the Prime Minister which has been requested by the Prime Minister.
- (4) The Investigatory Powers Commissioner may, at any time, make any such report to the Prime Minister, on any matter relating to the functions of the Judicial Commissioners, as the Investigatory Powers Commissioner considers appropriate.
- (5) A report under subsection (1) or (4) may, in particular, include such recommendations as the Investigatory Powers Commissioner considers appropriate about any matter relating to the functions of the Judicial Commissioners.
- (6) On receiving a report from the Investigatory Powers Commissioner under subsection (1), the Prime Minister must—
  - (a) publish the report, and
  - (b) lay a copy of the published report before Parliament together with a statement as to whether any part of the report has been excluded from publication under subsection (7).
- (7) The Prime Minister may, after consultation with the Investigatory Powers Commissioner and (so far as the report relates to functions under Part 3 of the Police Act 1997) the Scottish Ministers, exclude from publication any part of a report under subsection (1) if, in the opinion of the Prime Minister, the publication of that part 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 Investigatory Powers Commissioner.
- (8) The Prime Minister must send a copy of every report and statement as laid before Parliament under subsection (6)(b) to the Scottish Ministers and the Scottish Ministers must lay the copy report and statement before the Scottish Parliament.
- (9) The Investigatory Powers Commissioner may publish any report under subsection (3) or (4), or any part of such a report, if requested to do so by the Prime Minister.
- (10) Subsection (11) applies if the Prime Minister receives a report from the Investigatory Powers Commissioner under subsection (1) or (4) which relates to an investigation, inspection or audit carried out by the Commissioner following a decision to do so of which the Intelligence and Security Committee of Parliament was informed under section 236(2).

- (11) The Prime Minister must send to the Intelligence and Security Committee of Parliament a copy of the report so far as it relates to—
- (a) the investigation, inspection or audit concerned, and
  - (b) the functions of the Committee falling within section 2 of the Justice and Security Act 2013.

### **235 Investigation and information powers**

- (1) A Judicial Commissioner may carry out such investigations, inspections and audits as the Commissioner considers appropriate for the purposes of the Commissioner's functions.
- (2) Every relevant person must disclose or provide to a Judicial Commissioner all such documents and information as the Commissioner may require for the purposes of the Commissioner's functions.
- (3) Every relevant person must provide a Judicial Commissioner with such assistance as the Commissioner may require in carrying out any investigation, inspection or audit for the purposes of the Commissioner's functions.
- (4) Assistance under subsection (3) may, in particular, include such access to apparatus, systems or other facilities or services as the Judicial Commissioner concerned may require in carrying out any investigation, inspection or audit for the purposes of the Commissioner's functions.
- (5) A public authority may report to the Investigatory Powers Commissioner any refusal by a telecommunications operator or postal operator to comply with any requirements imposed by virtue of this Act.
- (6) A public authority, telecommunications operator or postal operator must report to the Investigatory Powers Commissioner any relevant error (within the meaning given by section 231(9)) of which it is aware.
- (7) In this section “relevant person” means—
  - (a) any person who holds, or has held, an office, rank or position with a public authority,
  - (b) any telecommunications operator or postal operator who is, has been or may become subject to a requirement imposed by virtue of this Act,
  - (c) any person who is, has been or may become subject to a requirement to provide assistance by virtue of section 41, 43, 126, 128, 149, 168, 170 or 190, or
  - (d) any person to whom a notice is given under section 49 of the Regulation of Investigatory Powers Act 2000.

### **236 Referrals by the Intelligence and Security Committee of Parliament**

- (1) Subsection (2) applies if the Intelligence and Security Committee of Parliament refers a matter to the Investigatory Powers Commissioner with a view to the Commissioner carrying out an investigation, inspection or audit into it.
- (2) The Investigatory Powers Commissioner must inform the Intelligence and Security Committee of Parliament of the Commissioner's decision as to whether to carry out the investigation, inspection or audit.

**237 Information gateway**

- (1) A disclosure of information to the Investigatory Powers Commissioner or another Judicial Commissioner for the purposes of any function of the Commissioner does not breach—
  - (a) an obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (whether imposed by virtue of this Act or otherwise).
- (2) But subsection (1) does not apply to a disclosure, in contravention of any provisions of the Data Protection Act 1998, of personal data which is not exempt from those provisions.