



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 8

OVERSIGHT ARRANGEMENTS

CHAPTER 1

INVESTIGATORY POWERS COMMISSIONER AND OTHER JUDICIAL COMMISSIONERS

Main functions of Commissioners

231 Error reporting

- (1) The Investigatory Powers Commissioner must inform a person of any relevant error relating to that person of which the Commissioner is aware if the Commissioner considers that—
 - (a) the error is a serious error, and
 - (b) it is in the public interest for the person to be informed of the error.
- (2) In making a decision under subsection (1)(a), the Investigatory Powers Commissioner may not decide that an error is a serious error unless the Commissioner considers that the error has caused significant prejudice or harm to the person concerned.
- (3) Accordingly, the fact that there has been a breach of a person's Convention rights (within the meaning of the Human Rights Act 1998) is not sufficient by itself for an error to be a serious error.
- (4) In making a decision under subsection (1)(b), the Investigatory Powers Commissioner must, in particular, consider—
 - (a) the seriousness of the error and its effect on the person concerned, and
 - (b) the extent to which disclosing the error would be contrary to the public interest or prejudicial to—
 - (i) national security,

Changes to legislation: *Investigatory Powers Act 2016, Section 231 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (ii) the prevention or detection of serious crime,
 - (iii) the economic well-being of the United Kingdom, or
 - (iv) the continued discharge of the functions of any of the intelligence services.
- (5) Before making a decision under subsection (1)(a) or (b), the Investigatory Powers Commissioner must ask the public authority which has made the error to make submissions to the Commissioner about the matters concerned.
- (6) When informing a person under subsection (1) of an error, the Investigatory Powers Commissioner must—
 - (a) inform the person of any rights that the person may have to apply to the Investigatory Powers Tribunal, and
 - (b) provide such details of the error as the Commissioner considers to be necessary for the exercise of those rights, having regard in particular to the extent to which disclosing the details would be contrary to the public interest or prejudicial to anything falling within subsection (4)(b)(i) to (iv).
- (7) The Investigatory Powers Commissioner may not inform the person to whom it relates of a relevant error except as provided by this section.
- (8) A report under section 234(1) must include information about—
 - (a) the number of relevant errors of which the Investigatory Powers Commissioner has become aware during the year to which the report relates,
 - (b) the number of relevant errors which the Commissioner has decided during that year were serious errors, and
 - (c) the number of persons informed under subsection (1) during that year.
- (9) In this section “relevant error” means an error—
 - (a) by a public authority in complying with any requirements which are imposed on it by virtue of this Act or any other enactment and which are subject to review by a Judicial Commissioner, and
 - (b) of a description identified for this purpose in a code of practice under Schedule 7,
 and the Investigatory Powers Commissioner must keep under review the definition of “relevant error”.

Modifications etc. (not altering text)

- C1** S. 231(9)(a) restricted (12.2.2019 for specified purposes, 13.8.2020 in so far as not already in force) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(1)(g), **Sch. 3 para. 62(6)** (with s. 25(9)); [S.I. 2020/792](#), reg. 2(g)

Commencement Information

- I1** S. 231 in force at 5.2.2019 for specified purposes by [S.I. 2019/174](#), **reg. 2(f)**
- I2** S. 231(1)-(8) in force at 27.6.2018 by [S.I. 2018/652](#), **reg. 11(b)(i)**
- I3** S. 231(9)(a) in force at 27.6.2018 for specified purposes by [S.I. 2018/652](#), **reg. 11(b)(aa)(ii)**
- I4** S. 231(9)(a) in force at 22.8.2018 for specified purposes by [S.I. 2018/873](#), **reg. 3(e)**
- I5** S. 231(9)(a) in force at 26.9.2018 for specified purposes by [S.I. 2018/940](#), **reg. 3(e)**
- I6** S. 231(9)(a) in force at 1.11.2018 for specified purposes by [S.I. 2018/873](#), **reg. 4(c)**
- I7** S. 231(9)(a) in force at 5.12.2018 for specified purposes by [S.I. 2018/1246](#), **reg. 3(g)**
- I8** S. 231(9)(b) in force at 27.6.2018 for specified purposes by [S.I. 2018/652](#), **reg. 11(b)(bb)(ii)**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 3 para. 8A and cross-heading inserted by [2023 c. 32 Sch. 18 para. 10\(2\)](#)
- Sch. 3 para. 20(2)(ha)(hb) inserted by [2023 c. 32 Sch. 18 para. 10\(3\)\(a\)](#)