



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 8

OVERSIGHT ARRANGEMENTS

CHAPTER 1

INVESTIGATORY POWERS COMMISSIONER AND OTHER JUDICIAL COMMISSIONERS

Main functions of Commissioners

233 Functions under other Parts and other enactments

- (1) The Investigatory Powers Commissioner and the other Judicial Commissioners have the functions that are exercisable by them by virtue of any other Part of this Act or by virtue of any other enactment.
- (2) In Part 3 of the Police Act 1997 (authorisations of action in respect of property: approval by Commissioners)—
 - (a) in sections 96(1), 103(7)(b) and (8), 104(3) to (8) and 105(1) and (2) for “Chief Commissioner” substitute “ Investigatory Powers Commissioner ”,
 - (b) in sections 96(1), 97(1)(a) and 103(1), (2), (4) and (5)(b) for “a Commissioner appointed under section 91(1)(b)” substitute “ a Judicial Commissioner ”,
 - (c) in sections 96(4), 97(4) and (6) and 103(3) and (6) for “a Commissioner” substitute “ a Judicial Commissioner ”,
 - (d) in section 103(7) for “a Commissioner” substitute “ a Judicial Commissioner (other than the Investigatory Powers Commissioner) ”,
 - (e) in section 104(1) for “Chief Commissioner” substitute “ Investigatory Powers Commissioner (except where the original decision was made by that Commissioner) ”,
 - (f) in section 104(3) and (8)(a) for “the Commissioner” substitute “ the Judicial Commissioner concerned ”,

Changes to legislation: *Investigatory Powers Act 2016, Section 233 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*

- (g) in section 105(1)(a)(ii) and (b)(ii) for “the Commissioner” substitute “ the Judicial Commissioner ”, and
 - (h) in sections 97(5) and 103(9) for “A Commissioner” substitute “ A Judicial Commissioner ”.
- (3) In Part 2 of the Regulation of Investigatory Powers Act 2000 (surveillance and covert human intelligence sources: approval by Commissioners)—
- (a) in sections 35(1) and (4), 36(2)(a) and (5) and 37(2) to (6) and (8) for “an ordinary Surveillance Commissioner”, wherever it appears, substitute “ a Judicial Commissioner ”,
 - (b) in sections 35(2)(b), 36(6)(g), 37(9)(b), 38(1) and (4) to (6) and 39(1), (2) and (4) and in the heading of section 39 for “Chief Surveillance Commissioner”, wherever it appears, substitute “ Investigatory Powers Commissioner ”,
 - (c) in sections 35(3)(a) and 36(4)(a) and (b) for “Surveillance Commissioner” substitute “ Judicial Commissioner ”,
 - (d) in section 37(8)(b) for “Chief Surveillance Commissioner” substitute “ Investigatory Powers Commissioner (if he is not that Commissioner) ”,
 - (e) in section 38(1)(a) for “an ordinary Surveillance Commissioner” substitute “ a Judicial Commissioner (other than the Investigatory Powers Commissioner) ”,
 - (f) in sections 38(5)(b) and 39(1)(b) for “ordinary Surveillance Commissioner” substitute “ Judicial Commissioner ”, and
 - (g) in the heading of section 38 for “Surveillance Commissioners” substitute “ Judicial Commissioners ”.
- (4) In Part 3 of the Act of 2000 (investigation of electronic data protected by encryption etc.)—
- (a) in section 51(6) (notification to Intelligence Services Commissioner or Chief Surveillance Commissioner of certain directions relating to the disclosure of a key to protected information) for the words from “done so” to the end substitute “ done so to the Investigatory Powers Commissioner ”,
 - (b) in section 54(9) (tipping-off: protected disclosures to a relevant Commissioner) for “relevant Commissioner” substitute “ Judicial Commissioner ”,
 - (c) in section 55(7) (court to have regard to opinion of a relevant Commissioner in certain circumstances relating to a disclosed key) for “relevant Commissioner” substitute “ Judicial Commissioner or the Investigatory Powers Commissioner for Northern Ireland ”, and
 - (d) omit sections 54(11) and 55(8) (definitions of “relevant Commissioner”).
- (5) In the Regulation of Investigatory Powers (Scotland) Act 2000 (2000 asp 11) (surveillance and covert human intelligence sources: approval by Commissioners and review by the Chief Commissioner)—
- (a) in sections 13(1) and (4), 14(1)(a) and (4) and 15(1) to (5) and (7) for “an ordinary Surveillance Commissioner”, wherever it appears, substitute “ a Judicial Commissioner ”,
 - (b) in sections 13(2)(b), 15(8)(b), 16(1) and (4) to (6) and 17 and in the heading of section 17 for “Chief Surveillance Commissioner”, wherever it appears, substitute “ Investigatory Powers Commissioner ”,
 - (c) in sections 13(3)(a) and 14(3)(a) and (b) for “Surveillance Commissioner” substitute “ Judicial Commissioner ”,

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- (d) in section 15(7)(b) for “Chief Surveillance Commissioner” substitute “Investigatory Powers Commissioner (if the Commissioner is not that Commissioner)”,
 - (e) in section 16(1)(a) for “an ordinary Surveillance Commissioner” substitute “a Judicial Commissioner (other than the Investigatory Powers Commissioner)”,
 - (f) in sections 16(5)(b) and 17(1)(b) for “ordinary Surveillance Commissioner” substitute “Judicial Commissioner”, and
 - (g) in section 16(5) for “ordinary Surveillance Commissioner's” substitute “Judicial Commissioner's”.
- (6) In Part 2 of the Regulation of Investigatory Powers (Covert Human Intelligence Sources: Relevant Sources) Order 2013 (S.I. 2013/2788) (notification of certain authorisations to, and approval of certain authorisations by, ordinary Surveillance Commissioner)—
- (a) in article 4(1), for “an ordinary Surveillance Commissioner” substitute “a Judicial Commissioner”,
 - (b) in article 5(8) and the heading of Part 2, for “ordinary Surveillance Commissioner” substitute “Judicial Commissioner”,
 - (c) in article 6(1) and (3) for “Chief Surveillance Commissioner” substitute “Investigatory Powers Commissioner”,
 - (d) in article 6(1) for “an ordinary Surveillance Commissioner” substitute “a Judicial Commissioner (other than the Investigatory Powers Commissioner)”, and
 - (e) in the heading of article 6 for “Surveillance Commissioners” substitute “Judicial Commissioners”.

Commencement Information

- I1** [S. 233\(1\)](#) in force at 13.2.2017 for specified purposes by [S.I. 2017/137](#), **reg. 2(h)**
- I2** [S. 233\(1\)](#) in force at 1.9.2017 in so far as not already in force by [S.I. 2017/859](#), **reg. 2(e)**
- I3** [S. 233\(2\)-\(6\)](#) in force at 1.9.2017 by [S.I. 2017/859](#), **reg. 2(e)**

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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\(3\)\(a\)](#)