



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 8

OVERSIGHT ARRANGEMENTS

CHAPTER 1

INVESTIGATORY POWERS COMMISSIONER AND OTHER JUDICIAL COMMISSIONERS

The Commissioners

227 Investigatory Powers Commissioner and other Judicial Commissioners

- (1) The Prime Minister must appoint—
 - (a) the Investigatory Powers Commissioner, and
 - (b) such number of other Judicial Commissioners as the Prime Minister considers necessary for the carrying out of the functions of the Judicial Commissioners.
- (2) A person is not to be appointed as the Investigatory Powers Commissioner or another Judicial Commissioner unless the person holds or has held a high judicial office (within the meaning of Part 3 of the Constitutional Reform Act 2005).
- (3) A person is not to be appointed as the Investigatory Powers Commissioner unless recommended jointly by—
 - (a) the Lord Chancellor,
 - (b) the Lord Chief Justice of England and Wales,
 - (c) the Lord President of the Court of Session, and
 - (d) the Lord Chief Justice of Northern Ireland.
- (4) A person is not to be appointed as a Judicial Commissioner under subsection (1)(b) unless recommended jointly by—
 - (a) the Lord Chancellor,

Changes to legislation: *Investigatory Powers Act 2016, Section 227 is up to date with all changes known to be in force on or before 24 April 2024. 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*

- (b) the Lord Chief Justice of England and Wales,
 - (c) the Lord President of the Court of Session,
 - (d) the Lord Chief Justice of Northern Ireland, and
 - (e) the Investigatory Powers Commissioner.
- (5) Before appointing any person under subsection (1), the Prime Minister must consult the Scottish Ministers.
- (6) The Prime Minister must have regard to a memorandum of understanding agreed between the Prime Minister and the Scottish Ministers when exercising functions under subsection (1) or (5).
- (7) The Investigatory Powers Commissioner is a Judicial Commissioner and the Investigatory Powers Commissioner and the other Judicial Commissioners are to be known, collectively, as the Judicial Commissioners.
- (8) The Investigatory Powers Commissioner may, to such extent as the Investigatory Powers Commissioner may decide, delegate the exercise of functions of the Investigatory Powers Commissioner to any other Judicial Commissioner.
- (9) Subsection (8) does not apply to the function of the Investigatory Powers Commissioner of making a recommendation under subsection (4)(e) or making an appointment under section 247(1).
- [^{F1}(9A) Subsection (8) applies to the functions of the Investigatory Powers Commissioner under section 60A or 65(3B) only where the Investigatory Powers Commissioner is unable to exercise the functions because of illness or absence or for any other reason.]
- (10) The delegation under subsection (8) to any extent of functions by the Investigatory Powers Commissioner does not prevent the exercise of the functions to that extent by that Commissioner.
- (11) Any function exercisable by a Judicial Commissioner or any description of Judicial Commissioners is exercisable by any of the Judicial Commissioners or (as the case may be) any of the Judicial Commissioners of that description.
- (12) Subsection (11) does not apply to—
- (a) any function conferred on the Investigatory Powers Commissioner by name (except so far as its exercise by any of the Judicial Commissioners or any description of Judicial Commissioners is permitted by a delegation under subsection (8)), or
 - (b) any function conferred on, or delegated under subsection (8) to, any other particular named Judicial Commissioner.
- (13) References in any enactment—
- (a) to a Judicial Commissioner are to be read as including the Investigatory Powers Commissioner, and
 - (b) to the Investigatory Powers Commissioner are to be read, so far as necessary for the purposes of subsection (8), as references to the Investigatory Powers Commissioner or any other Judicial Commissioner.

Textual Amendments

F1 S. 227(9A) inserted (5.2.2019) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), reg. 1(4)(d)(5), [Sch. 1 para. 24](#) (see S.I. 2019/174, reg. 2(c))

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Modifications etc. (not altering text)

- C1** S. 227(4)-(6) excluded (temp.) (27.3.2020) by [The Investigatory Powers \(Temporary Judicial Commissioners and Modification of Time Limits\) Regulations 2020 \(S.I. 2020/360\)](#), regs. 1(2), **3(3)** (with reg. 5)

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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):

- s. 58(4)(e) inserted by [2023 c. 41 Sch. 13 para. 9](#)