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## **Justice Committee Comataidh a' Cheartais**

# **Police Investigations and Review Commissioner (Application and Modification of the Criminal Justice (Scotland) Act 2016) (Scotland) Order 2017**



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## Justice Committee

Police Investigations and Review Commissioner (Application and Modification of the Criminal Justice (Scotland) Act 2016)  
(Scotland) Order 2017, 23rd Report, 2017 (Session 5)

# Justice Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice.



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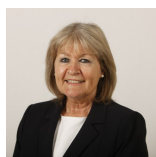


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# Committee Membership



**Convener**  
**Margaret Mitchell**  
Scottish Conservative  
and Unionist Party



**Deputy Convener**  
**Rona Mackay**  
Scottish National Party



**George Adam**  
Scottish National Party



**Maurice Corry**  
Scottish Conservative  
and Unionist Party



**Mary Fee**  
Scottish Labour



**John Finnie**  
Scottish Green Party



**Mairi Gougeon**  
Scottish National Party



**Liam Kerr**  
Scottish Conservative  
and Unionist Party



**Fulton MacGregor**  
Scottish National Party



**Ben Macpherson**  
Scottish National Party



**Liam McArthur**  
Scottish Liberal  
Democrats

# Police Investigations and Review Commissioner (Application and Modification of the Criminal Justice (Scotland) Act 2016) (Scotland) Order 2017

## Introduction

1. At its meeting on 12 December 2017 the Committee considered the following draft instrument:

[Police Investigations and Review Commissioner \(Application and Modification of the Criminal Justice \(Scotland\) Act 2016\) \(Scotland\) Order 2017 \[draft\]](#)

2. The instrument was referred to the Justice Committee as lead committee and was subject to the affirmative procedure. The Cabinet Secretary for Justice, Michael Matheson, attended the meeting to give evidence on the instrument and also to move the relevant motion recommending approval of the instrument.
3. The Order provides that where a member of the Police Investigations and Review Commissioner (PIRC) investigations staff is exercising the powers and privileges of a constable, Part 1 of the Criminal Justice (Scotland) Act 2016 (the 2016 Act) applies to that member as if the power were exercised by a constable of the Police Service of Scotland. This ensures that the powers and duties in Part 1 apply to PIRC criminal investigations as they apply to other criminal investigations.
4. The Order also makes a number of modifications to Part 1 of the 2016 Act as it applies to PIRC staff. These are mainly concerned with ensuring that where a provision in Part 1 relies on the rank structure within the Police Service, that provision, in its application to PIRC staff, takes account of the different hierarchical structure within the PIRC.

## Delegated Powers and Law Reform Committee consideration

5. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 5 December 2017 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

## Justice Committee consideration

6. The Justice Committee considered the instrument at its meeting on 12 December 2017 when it took evidence from Michael Matheson, Cabinet Secretary for Justice.  
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7. The Cabinet Secretary briefly described the purpose and effect of the Order. He confirmed that the PIRC and Police Scotland had agreed a framework that will include a memorandum of understanding to ensure that it is known how a criminal investigation by the PIRC, as directed by the Crown Office and Procurator Fiscal

Service, will be dealt with. In particular, Mr Matheson explained that this was important because the PIRC would need to make use of Police Scotland custody facilities in the course of its work.

8. Mr Matheson further confirmed that it was envisaged that Police Scotland facilities would be used in all cases as it held all the custody facilities provided.
9. In response to a question relating to whether the staff associations and trade unions are involved in discussions about the memorandum of understanding between the Police Service and the PIRC, Mr Matheson undertook to check with Police Scotland whether the programme board has consulted with the staff associations and trade unions and to report back to the Committee.
10. There being no further questions from members, the Cabinet Secretary then moved the motion in his name: S5M-09393-That the Justice Committee recommends to the Parliament that the Police Investigations and Review Commissioner (Application and Modification of the Criminal Justice (Scotland) Act 2016) (Scotland) Order 2017 [draft] be approved.
11. The motion was agreed to without debate or dissent.
12. The Justice Committee recommends to the Parliament that it approve the Police Investigations and Review Commissioner (Application and Modification of the Criminal Justice (Scotland) Act 2016) (Scotland) Order 2017 [draft] be approved.

**Justice Committee**

Police Investigations and Review Commissioner (Application and Modification of the Criminal Justice (Scotland) Act 2016) (Scotland) Order 2017, 23rd Report, 2017 (Session 5)

- 1 Scottish Parliament Justice Committee. [Official Report 12 December 2017](#) Cols 22-24.



