



Official Secrets Act 1989

1989 CHAPTER 6

5 Information resulting from unauthorised disclosures or entrusted in confidence.

(1) Subsection (2) below applies where—

- (a) any information, document or other article protected against disclosure by the foregoing provisions of this Act has come into a person's possession as a result of having been—
 - (i) disclosed (whether to him or another) by a Crown servant or government contractor without lawful authority; or
 - (ii) entrusted to him by a Crown servant or government contractor on terms requiring it to be held in confidence or in circumstances in which the Crown servant or government contractor could reasonably expect that it would be so held; or
 - (iii) disclosed (whether to him or another) without lawful authority by a person to whom it was entrusted as mentioned in sub-paragraph (ii) above; and
- (b) the disclosure without lawful authority of the information, document or article by the person into whose possession it has come is not an offence under any of those provisions.

(2) Subject to subsections (3) and (4) below, the person into whose possession the information, document or article has come is guilty of an offence if he discloses it without lawful authority knowing, or having reasonable cause to believe, that it is protected against disclosure by the foregoing provisions of this Act and that it has come into his possession as mentioned in subsection (1) above.

(3) In the case of information or a document or article protected against disclosure by sections 1 to 3 above, a person does not commit an offence under subsection (2) above unless—

- (a) the disclosure by him is damaging; and
- (b) he makes it knowing, or having reasonable cause to believe, that it would be damaging;

and the question whether a disclosure is damaging shall be determined for the purposes of this subsection as it would be in relation to a disclosure of that information,

Changes to legislation: *Official Secrets Act 1989, Section 5 is up to date with all changes known to be in force on or before 03 September 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*

document or article by a Crown servant in contravention of section 1(3), 2(1) or 3(1) above.

- (4) A person does not commit an offence under subsection (2) above in respect of information or a document or other article which has come into his possession as a result of having been disclosed—

- (a) as mentioned in subsection (1)(a)(i) above by a government contractor; or
- (b) as mentioned in subsection (1)(a)(iii) above,

unless that disclosure was by a British citizen or took place in the United Kingdom, in any of the Channel Islands or in the Isle of Man or a colony.

- (5) For the purposes of this section information or a document or article is protected against disclosure by the foregoing provisions of this Act if—

- (a) it relates to security or intelligence, defence or international relations within the meaning of section 1, 2 or 3 above or is such as is mentioned in section 3(1)(b) above; or

- (b) it is information or a document or article to which section 4 above applies;

and information or a document or article is protected against disclosure by sections 1 to 3 above if it falls within paragraph (a) above.

- (6) A person is guilty of an offence if without lawful authority he discloses any information, document or other article which he knows, or has reasonable cause to believe, to have come into his possession as a result of a contravention of section 1 of the ^{M1}Official Secrets Act 1911.

Marginal Citations

M1 1911 c. 28.

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Changes and effects yet to be applied to :

- s. 5(6) words substituted by [2023 c. 32 Sch. 18 para. 6\(2\)](#)

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. 11(4A) inserted by [2023 c. 32 Sch. 18 para. 6\(3\)\(c\)](#)