



Official Secrets Act 1989

1989 CHAPTER 6

8 Safeguarding of information.

- (1) Where a Crown servant or government contractor, by virtue of his position as such, has in his possession or under his control any document or other article which it would be an offence under any of the foregoing provisions of this Act for him to disclose without lawful authority he is guilty of an offence if—
 - (a) being a Crown servant, he retains the document or article contrary to his official duty; or
 - (b) being a government contractor, he fails to comply with an official direction for the return or disposal of the document or article,or if he fails to take such care to prevent the unauthorised disclosure of the document or article as a person in his position may reasonably be expected to take.
- (2) It is a defence for a Crown servant charged with an offence under subsection (1)(a) above to prove that at the time of the alleged offence he believed that he was acting in accordance with his official duty and had no reasonable cause to believe otherwise.
- (3) In subsections (1) and (2) above references to a Crown servant include any person, not being a Crown servant or government contractor, in whose case a notification for the purposes of section 1(1) above is in force.
- (4) Where a person has in his possession or under his control any document or other article which it would be an offence under section 5 above for him to disclose without lawful authority, he is guilty of an offence if—
 - (a) he fails to comply with an official direction for its return or disposal; or
 - (b) where he obtained it from a Crown servant or government contractor on terms requiring it to be held in confidence or in circumstances in which that servant or contractor could reasonably expect that it would be so held, he fails to take such care to prevent its unauthorised disclosure as a person in his position may reasonably be expected to take.
- (5) Where a person has in his possession or under his control any document or other article which it would be an offence under section 6 above for him to disclose without lawful

Changes to legislation: *Official Secrets Act 1989, Section 8 is up to date with all changes known to be in force on or before 28 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*

authority, he is guilty of an offence if he fails to comply with an official direction for its return or disposal.

- (6) A person is guilty of an offence if he discloses any official information, document or other article which can be used for the purpose of obtaining access to any information, document or other article protected against disclosure by the foregoing provisions of this Act and the circumstances in which it is disclosed are such that it would be reasonable to expect that it might be used for that purpose without authority.
- (7) For the purposes of subsection (6) above a person discloses information or a document or article which is official if—
- (a) he has or has had it in his possession by virtue of his position as a Crown servant or government contractor; or
 - (b) he knows or has reasonable cause to believe that a Crown servant or government contractor has or has had it in his possession by virtue of his position as such.
- (8) Subsection (5) of section 5 above applies for the purposes of subsection (6) above as it applies for the purposes of that section.
- (9) In this section “official direction” means a direction duly given by a Crown servant or government contractor or by or on behalf of a prescribed body or a body of a prescribed class.

Modifications etc. (not altering text)

- C1** [S. 8\(9\)](#): transfer of certain functions (1.7.1999) by [S.I. 1999/1750](#), [arts. 1\(1\), 2](#), [Sch. 1](#) (with [art. 7](#)); [S.I. 1998/3178](#), [art. 2\(1\)](#)

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