



# National Security Act 2023

## 2023 CHAPTER 32

### PART 1

#### ESPIONAGE, SABOTAGE AND PERSONS ACTING FOR FOREIGN POWERS

##### *Espionage etc*

### 1 Obtaining or disclosing protected information

- (1) A person commits an offence if—
  - (a) the person—
    - (i) obtains, copies, records or retains protected information, or
    - (ii) discloses or provides access to protected information,
  - (b) the person's conduct is for a purpose that they know, or having regard to other matters known to them ought reasonably to know, is prejudicial to the safety or interests of the United Kingdom, and
  - (c) the foreign power condition is met in relation to the person's conduct (see section 31).
- (2) In [this section](#) “protected information” means any information, document or other article where, for the purpose of protecting the safety or interests of the United Kingdom—
  - (a) access to the information, document or other article is restricted in any way, or
  - (b) it is reasonable to expect that access to the information, document or other article would be restricted in any way.
- (3) [Subsection \(1\)](#) applies whether the person's conduct takes place in the United Kingdom or elsewhere.
- (4) A person who commits an offence under [this section](#) is liable on conviction on indictment to imprisonment for life or a fine (or both).
- (5) For the purposes of [this section](#)—

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*Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Cross Heading: Espionage etc. (See end of Document for details)*

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- (a) a person retains protected information if the person retains it in their possession or under their control;
- (b) disclosure includes parting with possession.

#### Commencement Information

- I1** S. 1 not in force at Royal Assent, see [s. 100\(1\)](#)
- I2** S. 1 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

## 2 Obtaining or disclosing trade secrets

- (1) A person commits an offence if—
  - (a) the person—
    - (i) obtains, copies, records or retains a trade secret, or
    - (ii) discloses or provides access to a trade secret,
  - (b) the person’s conduct is unauthorised,
  - (c) the person knows, or having regard to other matters known to them ought reasonably to know, that their conduct is unauthorised, and
  - (d) the foreign power condition is met in relation to the person’s conduct (see [section 31](#)).
- (2) A “trade secret” means any information, document or other article which—
  - (a) is not generally known by, or available to, persons with knowledge of or expertise in the field to which it relates,
  - (b) has actual or potential industrial, economic or commercial value which would be, or could reasonably be expected to be, adversely affected if it became generally known by, or available to, such persons, and
  - (c) could reasonably be expected to be subject to measures to prevent it becoming generally known by, or available to, such persons (whether or not it is actually subject to such measures).
- (3) A person’s conduct is unauthorised if the person—
  - (a) is not entitled to determine whether they may engage in the conduct, and
  - (b) does not have consent to engage in the conduct from a person who is so entitled.
- (4) Subsection (1) applies whether the person’s conduct takes place in the United Kingdom or elsewhere (but see [subsection \(5\)](#)).
- (5) Conduct within subsection (1) which takes place wholly outside the United Kingdom constitutes an offence only if the trade secret is in the possession or under the control of a UK person.
- (6) A “UK person” means—
  - (a) a United Kingdom national;
  - (b) an individual who lives in the United Kingdom;
  - (c) a body incorporated under the law of a part of the United Kingdom;
  - (d) an unincorporated association formed under the law of a part of the United Kingdom.
- (7) A “United Kingdom national” is an individual who is—

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- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who under the British Nationality Act 1981 is a British subject, or
  - (c) a British protected person within the meaning of that Act.
- (8) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine (or both).
- (9) For the purposes of [this section](#)—
- (a) a person retains a trade secret if they retain it in their possession or under their control;
  - (b) disclosure includes parting with possession.

#### Commencement Information

- I3** S. 2 not in force at Royal Assent, see [s. 100\(1\)](#)  
**I4** S. 2 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

### 3 Assisting a foreign intelligence service

- (1) A person commits an offence if the person—
- (a) engages in conduct of any kind, and
  - (b) intends that conduct to materially assist a foreign intelligence service in carrying out UK-related activities.
- (2) A person commits an offence if the person—
- (a) engages in conduct that is likely to materially assist a foreign intelligence service in carrying out UK-related activities, and
  - (b) knows, or having regard to other matters known to them ought reasonably to know, that their conduct is likely to materially assist a foreign intelligence service in carrying out UK-related activities.
- (3) Conduct that may be likely to materially assist a foreign intelligence service includes providing, or providing access to, information, goods, services or financial benefits (whether directly or indirectly).
- (4) “UK-related activities” means—
- (a) activities taking place in the United Kingdom;
  - (b) activities taking place outside the United Kingdom which are prejudicial to the safety or interests of the United Kingdom.
- (5) For the purposes of [subsections \(1\) and \(2\)](#) it is not necessary to identify a particular foreign intelligence service.
- (6) [Subsections \(1\) and \(2\)](#) apply to conduct outside the United Kingdom, but apply to conduct taking place wholly outside the United Kingdom only if the person engaging in the conduct—
- (a) is a UK person, or
  - (b) acts for or on behalf of, or holds office under, the Crown, or is in Crown employment (whether or not they engage in the conduct in that capacity).

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- (7) In proceedings for an offence under this section it is a defence to show that the person engaged in the conduct in question—
- (a) in compliance with a legal obligation under the law of the United Kingdom which is not a legal obligation under private law,
  - (b) in the case of a person having functions of a public nature under the law of the United Kingdom, for the purposes of those functions,
  - (c) as a lawyer carrying on a legal activity, or
  - (d) in accordance with, or in relation to UK-related activities carried out in accordance with, an agreement or arrangement to which—
    - (i) the United Kingdom was a party, or
    - (ii) any person acting for or on behalf of, or holding office under, the Crown was (in that capacity) a party.
- (8) A person is taken to have shown a matter mentioned in subsection (7) if—
- (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
  - (b) the contrary is not proved beyond reasonable doubt.
- (9) A person who commits an offence under [this section](#) is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine (or both).
- (10) In [this section](#)—
- “Crown employment” means employment under or for the purposes of a government department or any officer or body exercising on behalf of the Crown functions conferred by an enactment;
  - “financial benefit” means money or money’s worth;
  - “foreign intelligence service” means any person whose functions include carrying out intelligence activities for or on behalf of a foreign power;
  - the “law of the United Kingdom” includes the law of any part of the United Kingdom;
  - “lawyer” has the meaning given by paragraph 6(3) of Schedule 15;
  - “legal activity” has the meaning given by paragraph 6(4) of Schedule 15;
  - “UK person” has the same meaning as in section 2.

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**Commencement Information**

- I5** S. 3 not in force at Royal Assent, see [s. 100\(1\)](#)  
**I6** S. 3 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

**Changes to legislation:**

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