



National Security Act 2023

2023 CHAPTER 32

PART 1

ESPIONAGE, SABOTAGE AND PERSONS ACTING FOR FOREIGN POWERS

Foreign power condition and foreign power threat activity

31 The foreign power condition

- (1) For the purposes of this Part the foreign power condition is met in relation to a person's conduct if—
 - (a) the conduct in question, or a course of conduct of which it forms part, is carried out for or on behalf of a foreign power, and
 - (b) the person knows, or having regard to other matters known to them ought reasonably to know, that to be the case.
- (2) The conduct in question, or a course of conduct of which it forms part, is in particular to be treated as carried out for or on behalf of a foreign power if—
 - (a) it is instigated by a foreign power,
 - (b) it is under the direction or control of a foreign power,
 - (c) it is carried out with financial or other assistance provided by a foreign power for that purpose, or
 - (d) it is carried out in collaboration with, or with the agreement of, a foreign power.
- (3) [Subsections \(1\)\(a\)](#) and [\(2\)](#) may be satisfied by a direct or indirect relationship between the conduct, or the course of conduct, and the foreign power (for example, there may be an indirect relationship through one or more companies).
- (4) A person's conduct may form part of a course of conduct engaged in by the person alone, or by the person and one or more other persons.
- (5) The foreign power condition is also met in relation to a person's conduct if the person intends the conduct in question to benefit a foreign power.

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- (6) For the purposes of [subsection \(5\)](#) it is not necessary to identify a particular foreign power.
- (7) The foreign power condition may be met in relation to the conduct of a person who holds office in or under, or is an employee or other member of staff of, a foreign power, as it may be met in relation to the conduct of any other person.

32 Meaning of “foreign power”

- (1) In this Part “foreign power” means—
 - (a) the sovereign or other head of a foreign State in their public capacity,
 - (b) a foreign government, or part of a foreign government,
 - (c) an agency or authority of a foreign government, or of part of a foreign government,
 - (d) an authority responsible for administering the affairs of an area within a foreign country or territory, or persons exercising the functions of such an authority, or
 - (e) a political party which is a governing political party of a foreign government.
- (2) A political party is a governing political party of a foreign government if persons holding political or official posts in the foreign government or part of the foreign government—
 - (a) hold those posts as a result of, or in the course of, their membership of the party, or
 - (b) in exercising the functions of those posts, are subject to the direction or control of, or significantly influenced by, the party.
- (3) [Subsection \(1\)\(e\)](#) does not include a political party which is—
 - (a) a governing political party of the government of the Republic of Ireland, and
 - (b) a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000.
- (4) In [this section](#)—
 - “foreign country or territory” means a country or territory outside the United Kingdom, the Channel Islands, the Isle of Man or the British Overseas Territories;
 - “foreign government” means the government of a foreign country or territory;
 - a “government” includes persons exercising the functions of a government;
 - “territory” includes the constituent territories of a federal State.

33 Foreign power threat activity and involvement in that activity

- (1) In this Part references to foreign power threat activity and to involvement in foreign power threat activity are to one or more of the following—
 - (a) the commission, preparation or instigation of acts or threats within [subsection \(3\)](#);
 - (b) conduct which facilitates (or is intended to facilitate) conduct falling within [paragraph \(a\)](#);

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- (c) conduct which gives support or assistance to a person (“P”), where the person who engages in the conduct—
 - (i) knows or believes P to be involved in, and
 - (ii) engages in the conduct for the purpose of giving support or assistance to,conduct falling within paragraph (a).
- (2) It is immaterial whether the activity within [subsection \(1\)](#) relates to specific acts or threats within [subsection \(3\)](#), or to acts or threats within that subsection in general.
- (3) References to acts or threats within [this subsection](#) are to—
 - (a) acts which constitute an offence under—
 - (i) [section 1](#) (obtaining or disclosing protected information);
 - (ii) [section 2](#) (obtaining or disclosing trade secrets);
 - (iii) [section 3](#) (assisting a foreign intelligence service);
 - (iv) [section 4](#) (entering etc. a prohibited place for a purpose prejudicial to the UK);
 - (v) [section 12](#) (sabotage);
 - (vi) [section 13](#) (foreign interference: general);
 - (vii) [section 17\(1\)](#) (obtaining material benefits from a foreign intelligence service);
 - (b) acts within [subsection \(4\)](#) in relation to which the foreign power condition is met;
 - (c) threats to carry out acts within [subsection \(4\)](#), where the foreign power condition is met in relation to the threats.
- (4) Acts are within [this subsection](#) if they—
 - (a) involve serious violence against another person,
 - (b) endanger the life of another person, or
 - (c) create a serious risk to the health or safety of the public or a section of the public.