

Official Secrets Act, 1911.

[1 & 2 GEO. 5. CH. 28.]

ARRANGEMENT OF SECTIONS.

A.D. 1911.

Section.

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CHAPTER 28.

An Act to re-enact the Official Secrets Act, 1889, with Amendments. [22nd August 1911.] A.D. 1911.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1.—(1) If any person for any purpose prejudicial to the safety or interests of the State— Penalties for spying.

- (a) approaches or is in the neighbourhood of, or enters any prohibited place within the meaning of this Act; or
- (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy; or
- (c) obtains or communicates to any other person any sketch, plan, model, article, or note, or other document or information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy;

he shall be guilty of felony, and shall be liable to penal servitude for any term not less than three years and not exceeding seven years.

(2) On a prosecution under this section, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and,

A.D. 1911. notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, or his conduct, or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place within the meaning of this Act, or anything in such a place, is made, obtained, or communicated by any person other than a person acting under lawful authority, it shall be deemed to have been made, obtained, or communicated for a purpose prejudicial to the safety or interests of the State unless the contrary is proved.

Wrongful
communica-
tion, &c. of
information.

2.—(1) If any person having in his possession or control any sketch, plan, model, article, note, document, or information which relates to or is used in a prohibited place or anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under His Majesty or which he has obtained owing to his position as a person who holds or has held office under His Majesty, or as a person who holds or has held a contract made on behalf of His Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract,—

- (a) communicates the sketch, plan, model, article, note, document, or information to any person, other than a person to whom he is authorised to communicate it, or a person to whom it is in the interest of the State his duty to communicate it, or
- (b) retains the sketch, plan, model, article, note, or document in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it:

that person shall be guilty of a misdemeanour.

(2) If any person receives any sketch, plan, model, article, note, document, or information, knowing, or having reasonable ground to believe, at the time when he receives it, that the sketch, plan, model, article, note, document, or information is communicated to him in contravention of this Act, he shall be guilty of a misdemeanour, unless he proves that the communication to him of the sketch, plan, model, article, note, document, or information was contrary to his desire.

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(3) A person guilty of a misdemeanour under this section shall be liable to imprisonment with or without hard labour for a term not exceeding two years, or to a fine, or to both imprisonment and a fine. A.D. 1911.

3. For the purposes of this Act, the expression "prohibited place" means— Definition of prohibited place.

- (a) any work of defence, arsenal, factory, dockyard, camp, ship, telegraph or signal station, or office belonging to His Majesty, and any other place belonging to His Majesty used for the purpose of building, repairing, making, or storing any ship, arms, or other materials or instruments of use in time of war, or any plans or documents relating thereto; and
- (b) any place not belonging to His Majesty where any ship, arms, or other materials or instruments of use in time of war, or any plans or documents relating thereto, are being made, repaired, or stored under contract with, or with any person on behalf of, His Majesty, or otherwise on behalf of His Majesty; and
- (c) any place belonging to His Majesty which is for the time being declared by a Secretary of State to be a prohibited place for the purposes of this section on the ground that information with respect thereto, or damage thereto, would be useful to an enemy; and
- (d) any railway, road, way, or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith), or any place used for gas, water, or electricity works or other works for purposes of a public character, or any place where any ship, arms, or other materials or instruments of use in time of war, or any plans or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of His Majesty, which is for the time being declared by a Secretary of State to be a prohibited place for the purposes of this section, on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy.

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Attempts to
commit
offence, or
incitement
to commit
offence,
under Act.

4. Any person who attempts to commit any offence under this Act, or incites, or counsels, or attempts to procure another person to commit an offence under this Act, shall be guilty of felony or of a misdemeanour according as the offence in question is felony or misdemeanour, and on conviction shall be liable to the same punishment, and to be proceeded against in the same manner, as if he had committed the offence.

Person charged
with felony under
Act may be con-
victed of mis-
demeanour under
Act.

5. Any person charged with an offence which is a felony under this Act may, if the circumstances warrant such a finding, be found guilty of an offence which is a misdemeanour under this Act.

Power to
arrest.

6. Any person who is found committing an offence under this Act, whether that offence is a felony or not, or who is reasonably suspected of having committed, or having attempted to commit, or being about to commit, such an offence, may be apprehended and detained in the same manner as a person who is found committing a felony.

Penalty for
harbouring
spies.

7. If any person knowingly harbours any person whom he knows, or has reasonable grounds for supposing, to be a person who is about to commit or who has committed an offence under this Act, or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, or if any person having harboured any such person, or permitted to meet or assemble in any premises in his occupation or under his control any such persons, wilfully refuses to disclose to a superintendent of police any information which it is in his power to give in relation to any such person he shall be guilty of a misdemeanour and liable to imprisonment with or without hard labour for a term not exceeding one year, or to a fine, or to both imprisonment and a fine.

Restriction
on prosecu-
tion.

8. A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Attorney-General:

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

9.—(1) If a justice of the peace is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search warrant authorising any constable named therein to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note, or document, or anything of a like nature or anything which is evidence of an offence under this Act having been or being about to be committed, which he may find on the premises or place or on any such person, and with regard to or in connexion with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

A.D. 1911.
Search
warrants.

(2) Where it appears to a superintendent of police that the case is one of great emergency and that in the interest of the State immediate action is necessary, he may by a written order under his hand give to any constable the like authority as may be given by the warrant of a justice under this section.

10.—(1) This Act shall apply to all acts which are offences under this Act when committed in any part of His Majesty's dominions, or when committed by British officers or subjects elsewhere.

Extent of
Act and
place of
trial of
offence.

(2) An offence under this Act, if alleged to have been committed out of the United Kingdom, may be inquired of, heard, and determined, in any competent British court in the place where the offence was committed, or in the High Court in England or the Central Criminal Court, and the Criminal Jurisdiction Act, 1802, shall apply in like manner as if the offence were mentioned in that Act, and the Central Criminal Court as well as the High Court possessed the jurisdiction given by that Act to the Court of King's Bench.

42 Geo. 3.
c. 85.

(3) An offence under this Act shall not be tried by any court of general or quarter sessions, nor by the sheriff court in Scotland, nor by any court out of the United Kingdom which has not jurisdiction to try crimes which involve the greatest punishment allowed by law.

(4) The provisions of the Criminal Law and Procedure (Ireland) Act, 1887, shall not apply to any trial under the provisions of this Act.

50 & 51 Vict.
c. 20.

A.D. 1911.

Saving for
laws of
British
possessions.

11. If by any law made before or after the passing of this Act by the legislature of any British possession provisions are made which appear to His Majesty to be of the like effect as those contained in this Act, His Majesty may, by Order in Council, suspend the operation within that British possession of this Act, or of any part thereof, so long as that law continues in force there, and no longer, and the Order shall have effect as if it were enacted in this Act :

Provided that the suspension of this Act, or of any part thereof, in any British possession shall not extend to the holder of an office under His Majesty who is not appointed to that office by the Government of that possession.

Interpreta-
tion.

12. In this Act, unless the context otherwise requires,—

Any reference to a place belonging to His Majesty includes a place belonging to any department of the Government of the United Kingdom or of any British possessions, whether the place is or is not actually vested in His Majesty ;

The expression "Attorney-General" means the Attorney or Solicitor-General for England; and as respects Scotland, means the Lord Advocate; and as respects Ireland, means the Attorney or Solicitor-General for Ireland; and, if the prosecution is instituted in any court out of the United Kingdom, means the person who in that court is Attorney-General, or exercises the like functions as the Attorney-General in England ;

Expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect, or description thereof only be communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note, or document, include the copying or causing to be copied the whole or any part of any sketch, plan, model, article, note, or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document ;

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The expression "document" includes part of a A.D. 1911.
document;

The expression "model" includes design, pattern,
and specimen;

The expression "sketch" includes any photograph
or other mode of representing any place or thing;

The expression "superintendent of police" includes
any police officer of a like or superior rank;

The expression "office under His Majesty" includes
any office or employment in or under any depart-
ment of the Government of the United Kingdom,
or of any British possession;

The expression "offence under this Act" includes
any act, omission, or other thing which is
punishable under this Act.

13.—(1) This Act may be cited as the Official Short title
Secrets Act, 1911. and repeal.

(2) The Official Secrets Act, 1889, is hereby repealed. 52 & 53 Vict.
c. 52.

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