

# REPRINT

## OFFICIAL SECRETS ACT (CAP. 25)

**As in force at: 1 October 2009**

**STATUS: HISTORICAL**

This version is that in force at the date stated above. It does not include amendments made since that date.

For list of amendments see Endnotes

**AN ACT RELATING TO OFFICIAL SECRETS**



## OFFICIAL SECRETS ACT (CAP. 25)

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# OFFICIAL SECRETS ACT (Cap. 25)

As in force at: 1 October 2009

## 1 Short title

This Act may be cited as the *Official Secrets Act*.

## 2 Interpretation

In this Act, unless the context otherwise requires:

any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government whether the place is or is not actually vested in Her Majesty;

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;

**“document”** includes part of a document;

**“model”** includes design, pattern, and specimen;

**“sketch”** includes any photograph or other mode of representing any place or thing;

**“munitions of war”** includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine, intended or adapted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use;

***“inspector of police”*** includes any police officer of a like or superior rank and any person upon whom the powers of a superintendent of police are for the purpose of this Act conferred by the Prime Minister;

***“office under Her Majesty”*** includes any office or employment in or under any department of the Government;

***“offence under this Act”*** includes any act, omission or other thing which is punishable under this Act;

### **3 Definition of prohibited place**

For the purposes of this Act, ***“prohibited place”*** means:

- (a) any work of defence, arsenal, naval, military or air force establishment or station, factory, dockyard, mine, minefield, camp, ship or aircraft belonging to or occupied by or on behalf of Her Majesty, or any telegraph, telephone, wireless or signal station, or office so belonging or occupied, and any place belonging to or occupied by or on behalf of Her Majesty and used for the purpose of building, repairing, making, or storing any munitions of war, or any sketches, plans, models, or documents relating thereto, or for the purpose of getting any metals, oil, or minerals of use in time of war; and
- (b) any place not belonging to Her Majesty where any munitions of war, or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten, or stored under contract with, or with any person on behalf of, Her Majesty, or otherwise on behalf of Her Majesty; and
- (c) any place belonging to or used for the purposes of Her Majesty which is for the time being declared by order of the Prime Minister 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 munitions of war, or any sketches, models, plans, or documents relating thereto are being made, repaired, or stored otherwise than on behalf of Her Majesty, which is for the time being declared by order of the Prime Minister 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.

#### **4 Penalties for spying**

(1) If any person for any purpose prejudicial to the safety or interests of the State:

- (a) approaches, inspects, passes over 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, collects, records, or publishes, or communicates to any other person any secret official code word, or pass word, or 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.

(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, 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 any thing in such a place, or any secret official code word or pass word, is made, obtained, collected, recorded, published, or

communicated by any person other than a person acting under lawful authority it shall be deemed to have been made, obtained, collected, recorded, published, or communicated for a purpose prejudicial to the safety or interests of the State unless the contrary is proved.

## **5 Wrongful communication, etc., of information**

- (1) If any person having in his possession or control any secret official code word, or pass word, or 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 Her Majesty, or which he has obtained, or to which he has had access, owing to his position as a person who holds or has held office under Her Majesty, or as a person who holds, or has held, a contract made on behalf of Her 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 code word, pass word, 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) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety or interests of the State; or
  - (c) 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, or fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or
  - (d) fails to take reasonable care of, or so conducts himself as to endanger the safety of the sketch, plan, model, article, note, document, secret official code or pass word or information;

that person shall be guilty of a misdemeanour.

- (2) If any person having in his possession or control any sketch, plan, model, article, note, document or information which relates to munitions of war, communicates it directly or indirectly to any foreign power, or in any other manner prejudicial to the safety or interests of the State, that person shall be guilty of a misdemeanour.
- (3) If any person receives any secret official code word, or pass word, or sketch, plan, model, article, note, document, or information, knowing, or having reasonable ground to believe, at the time when he receives it, that the code word, pass word, 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 code word, pass word, sketch plan, model, article, note, document, or information was contrary to his desire.

## **6           Penalty for harbouring spies**

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 omits or 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.

## **7           Unauthorised use of uniforms: falsification of reports**

- (1) If any person for the purpose of gaining admission, or of assisting any other person to gain admission, to a prohibited place, or for any other purpose prejudicial to the safety or interests of the State within the meaning of this Act:
  - (a) uses or wears, without lawful authority, any naval, military, air-force, police, or other official uniform or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or



- (b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or
- (c) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document), or uses or has in his possession any such forged, altered, or irregular official document; or
- (d) personates, or falsely represents himself to be a person holding, or in the employment of a person holding office under Her Majesty, or to be or not to be a person to whom an official document or secret official code word or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code word or pass word, whether for himself or any other person, knowingly makes any false statement; or
- (e) uses, or has in his possession or under his control, without the authority of the Government Department or the authority concerned, any die, seal, or stamp of or belonging to, or used, made or provided by any Government Department, or by any diplomatic, naval, military, or air-force authority appointed by or acting under the authority of Her Majesty, or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or uses, or has in his possession or under his control any such counterfeited die, seal or stamp;

he shall be guilty of a misdemeanour.

(2) If any person:

- (a) retains for any purpose prejudicial to the safety or interests of the State any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any Government Department or any

person authorised by such department with regard to the return or disposal thereof; or

- (b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of some person other than himself, or on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to a police constable; or
- (c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale any such die, seal or stamp as aforesaid;

he shall be guilty of a misdemeanour.

- (3) In the case of any prosecution under this section involving the proof of a purpose prejudicial to the safety or interests of the State, subsection (2) of section 4 shall apply in like manner as it applies to prosecutions under that section.

## **8 Communications with foreign agents to be evidence of commission of certain offences**

- (1) In any proceedings against a person for an offence under section 4, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without Solomon Islands, shall be evidence that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be, or might be, or is intended to be, directly or indirectly useful to an enemy.
- (2) For the purpose of this section, but without prejudice to the generality of the foregoing provision:
  - (a) a person shall, unless he proves the contrary, be deemed to have been in communication with a foreign agent if:

- (i) he has visited the address of a foreign agent or consorted or associated with a foreign agent; or
  - (ii) the name or address of, or any other information regarding a foreign agent has been found in his possession, or has been supplied by him to any other person, or has been obtained by him from any other person;
- (b) the expression “**foreign agent**” includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign power either directly or indirectly for the purpose of committing an act, either within or without Solomon Islands, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without Solomon Islands, committed, or attempted to commit, such an act in the interests of a foreign power;
- (c) any address, whether within or without Solomon Islands, reasonably suspected of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

## **9 Interfering with officers of the police or members of Her Majesty’s forces**

No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, the chief officer or a superintendent or other officer of police, or any member of Her Majesty’s forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place, and, if any person acts in contravention of, or fails to comply with, this provision, he shall be guilty of a misdemeanour.

## **10 Power to require the production of telegrams**

- (1) Where it appears to the Prime Minister that such course is expedient

in the public interest, he may, by warrant under his hand, require any person who owns or controls any telegraphic cable or wire, or any apparatus for wireless telegraphy, used for the sending or receipt of telegrams to or from any place out of Solomon Islands, to produce to him, or to any person named in the warrant, the originals and transcripts, either of all telegrams, or of telegrams of any specified class or description, or of telegrams sent from or addressed to any specified person or place, sent or received to or from any place out of Solomon Islands by means of any such cable, wire, or apparatus, and all other papers relating to any such telegram as aforesaid.

- (2) Any person who, on being required to produce any such original or transcript or paper as aforesaid, refuses or neglects to do so shall be guilty of an offence under this Act, and shall, for each offence, be liable on conviction to imprisonment for three months, or to a fine of 3,000 penalty units, or to both such imprisonment and fine.
- (3) In this section the expression **“telegram”** shall have the same meaning as in the *Telegraph Act, 1869*, and the expression **“wireless telegraphy”** shall have the same meaning as in the *Wireless Telegraphy Act, 1904*, both imperial enactments.

## **11 Registration and regulation of persons carrying on the business of receiving postal packets**

- (1) Every person who carries on, whether alone or in conjunction with any other business, the business of receiving for reward letters, telegrams, or other postal packets for delivery or forwarding to the persons for whom they are intended, shall as soon as may be send to the chief officer of police for the province, for registration by him, notice of the fact together with the address or addresses where the business is carried on, and the chief officer of police shall keep a register of the names and addresses of such persons, and shall, if required by any person who sends such a notice, furnish him on payment of a fee of ten cents with a certificate of registration, and every person so registered shall from time to time furnish to the chief officer of police notice of any change of address or new address at which the business is carried on, and such other information as may be necessary for maintaining the correctness of the particulars entered in the register.

(2) Every person who carries on such a business as aforesaid shall cause to be entered in a book kept for the purpose the following particulars:

- (a) the name and address of every person for whom any postal packet is received, or who has requested that postal packets received may be delivered or forwarded to him;
- (b) any instruction that may have been received as to the delivery or forwarding of postal packets;
- (c) in the case of every postal packet received, the place from which the postal packet comes, and the date of posting (as shown by the post-mark) and the date of receipt, and the name and address of the sender if shown on the outside of the packet, and, in the case of a registered packet, the date and office of registration and the number of the registered packet;
- (d) in the case of every postal packet delivered, the date of delivery and the name and address of the person to whom it is delivered;
- (e) in the case of every postal packet forwarded, the name and address to which and the date on which it is forwarded;

and shall not deliver a letter to any person until that person has signed a receipt for the same in such book as aforesaid, nor, if that person is not the person to whom the postal packet is addressed, unless there is left with him instructions signed by the last-mentioned person as to the delivery thereof, and shall not forward any postal packet to another address unless there is left with him written instructions to that effect signed by the addressee.

(3) The books so kept and all postal packets received by a person carrying on any such business, and any instruction as to the delivery or forwarding of postal packets received by any such person, shall be at all reasonable times open to inspection by any police officer or other person appointed in writing by the Prime Minister to make such inspection.

(4) If any person contravenes or fails to comply with any of the provisions of this section, or furnishes any false information or makes any false

entry, he shall be guilty of an offence under this Act and shall, for each offence, be liable on conviction to imprisonment for one month, or to a fine of 600 penalty units, or to both such imprisonment and fine.

- (5) Nothing in this section shall apply to postal packets addressed to any office where any newspaper or periodical is published, being postal packets in reply to advertisements appearing in such newspaper or periodical.

## **12 Duty of giving information as to commission of offences**

It shall be the duty of every person to give on demand to a chief officer of police, or to a superintendent or other officer of police, not below the rank of inspector appointed by a chief officer for the purpose, or to any member of Her Majesty's forces, engaged on guard, sentry, patrol, or other similar duty, any information in his power relating to an offence or suspected offence under this Act, and, if so required, and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information, and, if any person fails to give any such information or to attend as aforesaid, he shall be guilty of a misdemeanour.

## **13 Attempts, incitements, etc.**

Any person who attempts to commit any offence under this Act or solicits or incites or endeavours to persuade another person to commit an offence, or aids or abets or does any act preparatory to the commission of an offence under this Act, shall be guilty of a felony or a misdemeanour or an offence according as the offence in question is a felony, a misdemeanour or an offence, 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.

## **14 Provisions as to trial and punishment of offences**

- (1) Any person who is guilty of a felony under this Act shall be liable to imprisonment for fourteen years.

- (2) Any person who is guilty of a misdemeanour under this Act shall be liable on conviction to imprisonment for two years, or, on conviction for an offence to imprisonment for three months or to a fine of 3,000 penalty units, or to both such imprisonment and fine.
- (3) In addition and without prejudice to any powers which the Court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before the Court against any person for an offence under this Act, or in the course of the trial of a person for felony or misdemeanour under this Act, application is made by the prosecution, on the grounds that the publication of any evidence to be given, or of any statement to be made, in the course of the proceedings would be prejudicial to the national safety, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.
- (4) Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation shall be guilty of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

**15      Person charged with felony under Act may be convicted of misdemeanour under Act**

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.

**16      Power to arrest**

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.

## **17            Restriction on prosecution**

A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Prime Minister:

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 Prime Minister 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.

## **18            Search warrants**

- (1) If a Magistrate 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 police officer 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 connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.
- (2) Where it appears to an inspector 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 police officer the like authority as may be given by a Magistrate under this section.



## ENDNOTES

### 1

#### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 25 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act from that date to 1 October 2009.

### 2

#### LIST OF LEGISLATION

##### ***Official Secrets Act (Cap. 25)***

<i>Constituent legislation:</i>	13 of 1922 (Commenced 30 June 1922)
	4 of 1923
	11 of 1970
	LN 46A of 1978

##### ***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

### 3

#### LIST OF AMENDMENTS

s 10	amd by Act No. 14 of 2009
s 11	amd by Act No. 14 of 2009
s 14	amd by Act No. 14 of 2009