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CHAPTER 17:01**OFFICIAL SECRETS ACT****An Act to prevent the disclosure of official documents and information, and for connected matters.**

[Act No. 31 of 1922 amended by Act No. 8 of 1923, Act No. 15 of 1923, Act No. 20 of 1939, Act No. 8 of 2008.]

[Date of commencement: 30th December, 1922.]

1. Short title

This Act may be cited as the Official Secrets Act.

2. Interpretation

In this Act, unless the context otherwise requires—

any expressions referring to communicating or receiving shall include any communicating or receiving, whether in whole or in part, and whether the plan, sketch, model, article, note, document, or information itself, or the substance, effect, description thereof, only, be communicated or received;

any expressions referring to obtaining or retaining any sketch, plan, model, article, note, or document, shall include the copying or causing to be copied the whole or any part of such sketch, plan, model, note, article or document;

any expressions referring to the communication of any sketch, plan, model, article, note, or document;

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

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

“**munition of war**” includes the whole or any part of a 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;

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

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

3. Spying; a felony

(1) If a person for any purpose prejudicial to the safety or interest of the Government of The Gambia—

- (a) approaches, inspects, passes over or is in the neighbourhood of, or enters any prohibited place within the meaning of this Act;

- (b) makes a 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 a person a secret official code word, or password, or a 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 or she commits an offence under this Act.

[Act No. 8 of 2008.]

(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 Government of The Gambia, and, notwithstanding that no such act is proved against him or her, he or she may be convicted if, from the circumstances of the case, or his or her conduct, or his or her known character as proved, it appears that his or her purpose was a purpose prejudicial to the safety or interests of the Government of The Gambia.

(3) If a sketch, plan, model, article, note, document, or information relating to or used in a prohibited place within the meaning of this Act, or anything in the place or a secret official code word or password, is made, obtained, collected, recorded, published or communicated by a 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 Government of The Gambia, unless the contrary is proved.

4. Communication, etc., of code word, etc.

(1) If a person having in his or her possession or control a secret official code word, or password, or a sketch, plan, model, article, note, document, or information which relates to or is used in a prohibited place or anything in the place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him or her by a person holding office under the Government of The Gambia, or which has been obtained or to which he or she has had access owing to his or her position as a person who holds or has held office under the Government of The Gambia, or as a person who holds or has held a contract made on behalf of the Government of The Gambia or as a person who is or has been employed under a person who holds or has held an office or contract—

- (a) *Otherwise than to proper persons.*—communicates the code word, password, sketch, plan, model, article, note, document, information or to any person, other than a person to whom he or she is authorised to communicate it, or a person to whom it is in the interest of the Government of The Gambia his or her duty to communicate it;

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- (b) *Use of information for benefit of foreign Power.*—uses the information in his or her possession for the benefit of any foreign Power or in any other manner prejudicial to the safety or interests of the Government of The Gambia;
- (c) *Retention of plans, etc.*—retains the sketch, plan, model, article, note, or document in his or her possession or control when he or she has no right to retain it or when it is contrary to his or her 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) *Endangering safety of plans, etc.*—fails to take reasonable care of, or so conducts himself or herself as to endanger the safety of the sketch, plan, model, article, note, document, secret official code or password or information,

he or she commits an offence under this Act.

[Act No. 8 of 2008.]

(2) If a person having in his or her possession or control a 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 Government of The Gambia, he or she commits an offence under this Act.

[Act No. 8 of 2008.]

(3) If a person receives any secret official code word, or password, or sketch, plan, model, article, note, document or information, knowing or having reasonable ground to believe, at the time when he or she receives it, that the code word, password, sketch, plan, model, article, note, document, or information is communicated to him or her in contravention of this Act, unless he or she proves that the communication to him or her of the code word, password, sketch, plan, model, article, note, document, or information was contrary to his or her desire, he or she commits an offence under this Act.

[Act No. 8 of 2008.]

5. Gaining admission to prohibited place, etc.

If a person for the purpose of gaining admission, or of assisting a person to gain admission, to a prohibited place, within the meaning of this Act, or for any other purpose prejudicial to the safety or interests of the Government of The Gambia within the meaning of this Act—

- (a) *Unauthorised use of uniforms.*—uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, authorised or prescribed by the Government of The Gambia or any uniform so nearly resembling it as to be calculated to deceive, or falsely represents himself or herself to be a person who is or has been entitled to use or wear the uniform;

- (b) *Making false statements.*—orally, or in writing in any declaration or application, or in any document signed by him or her or on his or her behalf, knowingly makes or connives at the making of any false statement or any omission;
- (c) *Forging, etc., passports or official documents or possessing forgeries.*—forges, alters, tampers with or destroys any passport or a naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character, hereinafter referred to in this section as an official document, or uses or has in his or her possession any such forged, altered, or irregular official document;
- (d) *Personating persons holding office, etc.*—personates, or falsely represents himself or herself to be a person holding, or in the employment of a person holding office under the Government of The Gambia, or to be, or not to be, a person to whom an official document or secret official code word or password has been duly issued or communicated or with intent to obtain an official document, secret official code word or password, whether for himself or herself or any other person, knowingly makes any false statement;
- (e) *Possessing any die, etc., of Government Department, etc.*—has in his or her possession or under his or her control an official die, a seal or stamp, an impression of a die, seal or stamp, or a official paper; or
- (f) *Counterfeit of same likely to deceive.*—counterfeits of an official die, seal or stamp, or has in possession or under his or her control a counterfeited official die, seal or stamp or, anything so closely resembling an official die, seal or stamp as to be calculated to deceive, or a paper so closely resembling official paper as to be calculated to deceive,

he or she commits an offence under this Act.

For the purposes of this section a die, seal, stamp or paper shall be taken to be an official die, seal or stamp, or official paper, as the case may be, if, but only if, it is specially designed for use in the service of the Government of The Gambia, in the service of a foreign government or for the purposes of a police force.

[Act No. 8 of 2008.]

6. Unauthorised retention, possession or use of official documents

(1) If a person—

- (a) retains for any purpose prejudicial to the safety or interests of the Government of The Gambia any official document, whether or not completed or issued for use, when he or she has no right to retain it, or when it is contrary to his or her duty to retain it, or fails to comply with any directions issued by any Government Department or a person authorised by the Department with regard to the return or disposal thereof;

- (b) *Allowing another to have possession of official documents, etc.*—allows a person to have possession of an official document issued for his or her use alone, or communicates any secret official code word or password so issued, or, without lawful authority or excuse, has in his or her possession any official document or secret official code word or password issued for the use of some person other than himself or herself 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) *Manufacturing or selling die, etc.*—without lawful authority or excuse, manufactures or sells, or has in his or her possession for sale, any such die, seal or stamp,

he or she commits an offence under this Act.

[Act No. 8 of 2008.]

(2) In the case of a prosecution involving the proof of a purpose prejudicial to the Government of The Gambia, subsection (2) of section 3 of this Act shall apply in like manner as it applies to prosecutions under the section.

7. Definition of “prohibited place”

For the purposes of this Act, the expression “**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 the Government of The Gambia 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 the Government of The Gambia 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;
- (b) any place not belonging to the Government of The Gambia where any munitions of war, or any sketches, plans, models, or documents relating thereto, are being made, repaired, gotten, or stored under contract with, or with any person on behalf of the Government of The Gambia;
- (c) any place belonging to or used for the purposes of the Government of The Gambia which is for the time being declared by order of the President 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 the 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 the Government of The Gambia which is for the time being declared by order of the President 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.

8. Communication with foreign agents to be evidence of commission of certain offences

(1) In any proceeding against a person for an offence under section 3 of this Act, the fact that he or she has been in communication with, or attempted to communicate with, a foreign agent, whether within or without The Gambia, shall be evidence that he or she has, for a purpose prejudicial to the safety or interests of the Government of The Gambia, 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 purposes of this section, and without prejudice to the generality of the provisions of subsection (1) of this section—

- (a) a person shall, unless he or she proves the contrary, be deemed to have been in communication with a foreign agent if he or she has, within or outside The Gambia, visited the address of a foreign agent or resorted or associated with a foreign agent; or, within or outside The Gambia the name or address of, or any other information regarding, a foreign agent has been found in his or her possession, or has been supplied by him or her to any other person, or has been obtained by him or her from any other person;
- (b) *Definition of "foreign agent"*.—the expression "**foreign agent**" shall include 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 any act, either within or outside The Gambia, prejudicial to the safety or interests of the Government of The Gambia, or who has or is reasonably suspected of having, either within or outside The Gambia, committed, or attempted to commit, such an act in the interests of a foreign power; and
- (c) *"Address of foreign agent"*.—any address, whether within or outside The Gambia, reasonably suspected of being an address used for the receipt of communications intended for a foreign agent, or any

address at which such a foreign agent resides or to which he or she resorts for the purposes of giving or receiving communications, or at which he or she carries on 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. Interference with officers of the police or members of the forces of The Gambia

If any person in the vicinity of any prohibited place obstructs, knowingly misleads or otherwise interferes with or impedes any police constable or police officer or any member of the forces of The Gambia engaged on guard, sentry, patrol or other similar duty in relation to the prohibited place, he or she commits an offence under this Act.

[Act No. 8 of 2008.]

10. Harboursing spies

If a person knowingly harbours a person whom he or she 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 or her occupation or under his or her control any such persons, or if a person, having harboured a person, or permitted to meet or assemble in any premises in his or her occupation or under his or her control a person, wilfully omits or refuses to disclose to the Commissioner of police any information which it is in his or her power to give in relation to a person, he or she commits an offence under this Act.

[Act No. 8 of 2008.]

11. Restriction of prosecutions

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 an offence may be arrested, or a warrant for his or her arrest may be issued and executed, and a 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; and further or other proceedings shall not be taken until such consent shall have been obtained.

12. Search warrants

(1) If a Magistrate of the First Class or a Commissioner 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 or she may grant a search warrant authorising a constable named therein to enter at any time any premises or place named in the warrant, if necessary by force, and to search the place or premises 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 or she may find on the premises or place or on a person, and with regard to or in connection with which he or she has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(2) Where it appears to the Inspector-General of Police that the case is one of great emergency and that in the interest of the Government of The Gambia immediate action is necessary, he or she may, by a written order under his or her hand give to any constable the like authority as may be given by the warrant of a Magistrate of the First Class or a Commissioner under this section.

13. Power to require the production of telegrams

(1) Where it appears to the President that such course is expedient in the public interest, he or she may, by warrant under his or her hand, require a 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 The Gambia to produce to him or her, or to a 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 The Gambia by means of a cable, wire or apparatus, and all other papers relating to any such telegrams.

(2) A person who, on being required to produce an original or manuscript or paper refuses or neglects to do so commits an offence under this Act, and is, for each offence, liable on conviction to a fine of two hundred and fifty thousand dalasis or to imprisonment for a minimum term of fifteen years and a maximum term of life or to both the fine and imprisonment.

[Act No. 8 of 2008.]

(3) In this section, the expression “**telegram**” shall have the same meaning as in the Telegraphs (Messages Protection) Act, and the expression “**wireless telegraph**” shall have the same meaning as in the Telegraph Stations Act.

[Cap. 74:01, Cap. 74:02.]

14. Registration and regulation of persons carrying on the business of receiving postal packets

(1) A 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 sent to the Inspector-General of Police for registration by him or her, notice of the fact together with the address or addresses where the business is carried on and the Commissioner of Police shall keep a register of the names and addresses of such persons, and shall, if required by a person who sends such a

notice, furnish him or her on payment of a fee of fifty bututs with a certificate of registration and every person so registered shall, from time to time, furnish to the Inspector-General 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) A person who carries on such business 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 or her;
- (b) any instructions 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;

Delivery of letters subject to conditions.—and shall not deliver a letter to any person until that person has signed a receipt therefor in such book, nor if such person is not the person to whom the postal packet is addressed, unless there is left with him or her 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 or her 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 business, and any instruction as to the delivery or forwarding of postal packets received by a person, shall be kept at all reasonable times open to inspection by any police constable.

(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 or she commits an offence under this Act and is, for each offence, liable on conviction to a fine not exceeding one thousand dalasis, or to imprisonment for a term not exceeding seven years or to both the fine and imprisonment.

[Subsection (4) substituted by Act No. 8 of 2008.]

(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.

(6) Nothing in this section shall be construed as rendering legal anything which would be in contravention of the exclusive privilege of the Government under the Post Office Act.

[Cap. 73:01.]

15. Duty of giving information as to commission of offences

Every person shall give on demand to the Inspector-General of Police or to any other officer of police appointed by the Inspector-General of Police for the purpose, or to any member of the forces of The Gambia engaged on guard, sentry, patrol, or other similar duty, any information in his or her power relating to an offence or suspected offence under this Act, and, if so required, and upon tender of his or her reasonable expenses, shall attend at such reasonable time and place as may be specified for the purpose of furnishing the information, and, if a person fails to give any such information or so to attend, he or she commits an offence under this Act.

[Act No. 8 of 2008.]

16. Attempts incitements, etc.

A person who attempts to commit an offence under this Act, or solicits, incites or endeavours to persuade another person to commit an offence, or aids and abets or does any act preparatory to the commission of an offence under this Act, commits an offence thereunder in the same way as a person committing the offence in question commits an offence thereunder, and on conviction is liable to the same punishment and to be proceeded against in the same manner as if he or she had committed the offence.

17. Trial and punishment of offences

Except as otherwise provided in this Act, a person who commits an offence under this Act is liable on conviction, in the case of—

- (a) an offence under section 3, to imprisonment for a minimum term of thirty years and a maximum term of life; and
- (b) any other offence, to a maximum fine of one million dalasis or imprisonment for a maximum term of fifteen years or to both the fine and imprisonment and, in default of payment of fine, to imprisonment for a term of fifteen years.

[Act No. 8 of 2008.]

18. Cesser of application of 1 and 2 Geo. 5 c. 28 and 10 and 11 Geo. 5 c. 75

The Official Secrets Acts, 1911 and 1920, of the United Kingdom shall cease to apply to the City of Banjul and Kombo Saint Mary.

CHAPTER 17:01

**OFFICIAL SECRETS ACT
SUBSIDIARY LEGISLATION**

No Subsidiary Legislation
