



# 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.

---

**Changes to legislation:** There are currently no known outstanding effects for the National Security Act 2023,  
Cross Heading: Foreign power condition and foreign power threat activity. (See end of Document for details)

---

- (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.

**Modifications etc. (not altering text)**

- C1** [S. 31](#) applied (20.12.2023) by 2020 c. 17, s. 69A (as inserted by [National Security Act 2023 \(c. 32\)](#), [ss. 19\(2\)](#), [100\(1\)](#) (with [s. 97](#)); [S.I. 2023/1272](#), [reg. 2\(a\)](#))

**Commencement Information**

- I1** [S. 31](#) not in force at Royal Assent, see [s. 100\(1\)](#)
- I2** [S. 31](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

## 32 Meaning of “foreign power”

- (1) In this Part “foreign power” means—
- the sovereign or other head of a foreign State in their public capacity,
  - a foreign government, or part of a foreign government,
  - an agency or authority of a foreign government, or of part of a foreign government,
  - 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
  - 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—
- hold those posts as a result of, or in the course of, their membership of the party, or
  - 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 governing political party of the government of the Republic of Ireland, and
  - 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.

**Changes to legislation:** There are currently no known outstanding effects for the National Security Act 2023.  
Cross Heading: Foreign power condition and foreign power threat activity. (See end of Document for details)

#### Commencement Information

- I3** S. 32 not in force at Royal Assent, see [s. 100\(1\)](#)  
**I4** S. 32 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

### 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 \(a\)](#);
  - (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.

#### Commencement Information

- I5** S. 33 not in force at Royal Assent, see [s. 100\(1\)](#)

---

**Changes to legislation:** There are currently no known outstanding effects for the National Security Act 2023,  
Cross Heading: Foreign power condition and foreign power threat activity. (See end of Document for details)

---

**16** [S. 33](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the National Security Act 2023, Cross  
Heading: Foreign power condition and foreign power threat activity.