



# National Security Act 2023

## 2023 CHAPTER 32

### PART 1

#### ESPIONAGE, SABOTAGE AND PERSONS ACTING FOR FOREIGN POWERS

##### *Espionage etc*

## **2 Obtaining or disclosing trade secrets**

- (1) A person commits an offence if—
  - (a) the person—
    - (i) obtains, copies, records or retains a trade secret, or
    - (ii) discloses or provides access to a trade secret,
  - (b) the person's conduct is unauthorised,
  - (c) the person knows, or having regard to other matters known to them ought reasonably to know, that their conduct is unauthorised, and
  - (d) the foreign power condition is met in relation to the person's conduct (see section 31).
- (2) A "trade secret" means any information, document or other article which—
  - (a) is not generally known by, or available to, persons with knowledge of or expertise in the field to which it relates,
  - (b) has actual or potential industrial, economic or commercial value which would be, or could reasonably be expected to be, adversely affected if it became generally known by, or available to, such persons, and
  - (c) could reasonably be expected to be subject to measures to prevent it becoming generally known by, or available to, such persons (whether or not it is actually subject to such measures).
- (3) A person's conduct is unauthorised if the person—
  - (a) is not entitled to determine whether they may engage in the conduct, and

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*Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Section 2. (See end of Document for details)*

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- (b) does not have consent to engage in the conduct from a person who is so entitled.
- (4) Subsection (1) applies whether the person's conduct takes place in the United Kingdom or elsewhere (but see subsection (5)).
- (5) Conduct within subsection (1) which takes place wholly outside the United Kingdom constitutes an offence only if the trade secret is in the possession or under the control of a UK person.
- (6) A "UK person" means—
  - (a) a United Kingdom national;
  - (b) an individual who lives in the United Kingdom;
  - (c) a body incorporated under the law of a part of the United Kingdom;
  - (d) an unincorporated association formed under the law of a part of the United Kingdom.
- (7) A "United Kingdom national" is an individual who is—
  - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who under the British Nationality Act 1981 is a British subject, or
  - (c) a British protected person within the meaning of that Act.
- (8) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine (or both).
- (9) For the purposes of this section—
  - (a) a person retains a trade secret if they retain it in their possession or under their control;
  - (b) disclosure includes parting with possession.

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**Commencement Information**

- I1** S. 2 not in force at Royal Assent, see **s. 100(1)**
- I2** S. 2 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, Section 2.