



# National Security Act 2023

## 2023 CHAPTER 32

### PART 1

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

##### *Obtaining benefits from a foreign intelligence service*

#### **17 Obtaining etc material benefits from a foreign intelligence service**

- (1) A person commits an offence if—
  - (a) the person—
    - (i) obtains, accepts or retains a material benefit which is not an excluded benefit, or
    - (ii) obtains or accepts the provision of such a benefit to another person,
  - (b) the benefit is or was provided by or on behalf of a foreign intelligence service, and
  - (c) the person knows, or having regard to other matters known to them ought reasonably to know, that the benefit is or was provided by or on behalf of a foreign intelligence service.
- (2) A person commits an offence if—
  - (a) the person agrees to accept—
    - (i) a material benefit which is not an excluded benefit, or
    - (ii) the provision of such a benefit to another person,
  - (b) the benefit is to be provided by or on behalf of a foreign intelligence service, and
  - (c) the person knows, or having regard to other matters known to them ought reasonably to know, that the benefit is to be provided by or on behalf of a foreign intelligence service.
- (3) Material benefits may include financial benefits, anything which has the potential to result in a financial benefit, and information.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A material benefit is an excluded benefit if—
- (a) it is provided as reasonable consideration for the provision of goods or services, and
  - (b) the provision of those goods or services does not constitute an offence.
- (5) A benefit may be provided by or on behalf of a foreign intelligence service directly or indirectly (for example, it may be provided indirectly through one or more companies).
- (6) Subsections (1) and (2) apply to conduct outside the United Kingdom, but apply to conduct taking place wholly outside the United Kingdom only if—
- (a) the material benefit is or was, or is to be, provided in or from the United Kingdom, or
  - (b) in any case, the person engaging in the conduct—
    - (i) is a UK person, or
    - (ii) acts for or on behalf of, or holds office under, the Crown, or is in Crown employment (whether or not they engage in the conduct in that capacity).
- (7) In proceedings for an offence under subsection (1) by virtue of retaining a benefit, it is a defence to show that the person had a reasonable excuse for retaining the benefit.
- (8) In proceedings for an offence under subsection (1) or (2) it is a defence to show that the person engaged in the conduct in question—
- (a) in compliance with a legal obligation under the law of the United Kingdom which is not a legal obligation under private law,
  - (b) in the case of a person having functions of a public nature under the law of the United Kingdom, for the purposes of those functions, or
  - (c) in accordance with an agreement or arrangement to which—
    - (i) the United Kingdom was a party, or
    - (ii) any person acting for or on behalf of, or holding office under, the Crown was (in that capacity) a party.
- (9) A person is taken to have shown a matter mentioned in subsection (7) or (8) if—
- (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
  - (b) the contrary is not proved beyond reasonable doubt.
- (10) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine (or both).
- (11) A person who commits an offence under subsection (2) is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or a fine (or both).
- (12) The following terms have the same meaning as in section 3—
- “Crown employment”;
  - “financial benefit”;
  - “foreign intelligence service”;
  - the “law of the United Kingdom”;
  - “UK person”.