



National Security Act 2023

2023 CHAPTER 32

PART 1

ESPIONAGE, SABOTAGE AND PERSONS ACTING FOR FOREIGN POWERS

Acting for foreign power as aggravating factor in sentencing

21 Aggravating factor where foreign power condition met: Scotland

- (1) **This section** applies where in Scotland, in relation to a relevant offence, it is—
 - (a) libelled in an indictment, and
 - (b) proved,that the offence has been aggravated by reason of the foreign power condition being met in relation to the conduct that constitutes the offence.
- (2) Where **this section** applies, the court must take the aggravation into account in determining the appropriate sentence.
- (3) Where the sentence imposed by the court in respect of the offence is different from that which the court would have imposed if the offence had not been aggravated by reason of being an offence within **subsection (1)**, the court must state the extent of, and the reasons for, the difference.
- (4) Evidence from a single source is sufficient to prove that an offence has been aggravated by reason of the foreign power condition being met in relation to conduct which constitutes the offence.
- (5) A “relevant offence” is an offence that—
 - (a) is committed on or after the day on which **this section** comes into force, and
 - (b) is not an offence listed in **subsection (6)**.
- (6) Those offences are—
 - (a) an offence under this Act or an ancillary offence in relation to any such offence;

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Section 21. (See end of Document for details)

- (b) a relevant electoral offence (within the meaning given by section 16).
- (7) An “ancillary offence”, in relation to an offence, means any of the following—
- (a) being art and part in the commission of the offence;
 - (b) inciting a person to commit the offence;
 - (c) attempting or conspiring to commit the offence.
- (8) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (5)(a) to have been committed on the first of those days.

Commencement Information

- I1** S. 21 not in force at Royal Assent, see **s. 100(1)**
- I2** S. 21 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 21.