

## **CHAPTER 302**

### **THE OFFICIAL SECRETS ACT.**

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## **CHAPTER 302**

### **THE OFFICIAL SECRETS ACT.**

*Commencement:* 30 December, 1964.

#### **An Act relating to State security.**

#### **1. Interpretation.**

- (1) In this Act, unless the context otherwise requires—
  - (a) “agent of a foreign power” includes 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 an act whether within or without Uganda prejudicial to the safety or interests of Uganda or who has or is reasonably suspected of having either within or without Uganda committed or attempted to commit such an act in the interests of a foreign power; prejudicial to the safety or interests of Uganda or who has or is reasonably suspected of having either within or without Uganda committed or attempted to commit such an act in the interests of a foreign power;
  - (b) “document” includes part of a document;
  - (c) “magistrate” means a chief magistrate;
  - (d) “Minister” means the Minister responsible for internal security;
  - (e) “model” includes design, pattern and specimen;
  - (f) “munitions of war” means arms, ammunition, implements or munitions of war, army, naval or air stores or any articles deemed capable of being converted into, or made useful in the production of them;
  - (g) “offence under this Act” includes any act, omission or other thing that is punishable under this Act;
  - (h) “office under the Government” includes any office or employment in or under any Ministry, department or branch of the Government and any office or employment in, on or under any board, commission, corporation or other body that is an agent of the Government;
  - (i) “official document” includes a passport, any naval, army, air force, police or official pass, permit, certificate, licence or other document of a similar character;
  - (j) “prohibited place” means—

- (i) any work of defence belonging to or occupied or used by or on behalf of the Government, including arsenals, naval, army or air force establishments or stations, factories, dockyards, mines, minefields, camps, ships, aircraft, telegraph, telephone, wireless or signal stations or offices, and places used for the purpose of building, repairing, making or storing any munitions of war or any sketches, plans, models, or documents relating to them, or for the purposes of getting any metals, oil or minerals for use in time of war;
  - (ii) any place not belonging to Uganda where any munitions of war or any sketches, models, plans or documents relating to them, are being made, repaired, gotten or stored under contract with, or with any person acting on behalf of the Government;
  - (iii) any place that is for the time being declared by statutory instrument by the Minister to be a prohibited place on the ground that information with respect to it or damage to it would be useful to a foreign power; (k) “sketch” includes any mode of representing any place or thing.
- (2) For the purposes of this Act—
- (a) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document or information itself or its substance, effect or description only is communicated or received;
  - (b) expressions referring to obtaining or retaining any sketch, plan, model, article, note or document include copying or causing to be copied the whole or any part of any sketch, plan, model, article, note or document; and
  - (c) expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document.

## **2. Acts prejudicial to the State.**

- (1) Any person who, for any purpose prejudicial to the safety or interests of the territories of Uganda—
  - (a) approaches, inspects, passes over, or is in the neighbourhood of, or enters any prohibited place;

- (b) makes any sketch, plan, model or note that is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power; or
- (c) obtains, collects, records, or publishes or communicates in whatever manner to any other person any secret official code word, or password or any 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 a foreign power,

commits an offence under this Act.

(2) It shall not be necessary, on a prosecution under this section, to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of Uganda and, notwithstanding that no such act is proved against him or her, the accused person 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 Uganda.

(3) Where any sketch, plan, model, article, note, document or information relating to or used in any prohibited place, or anything in such a place, or any secret official code word or password is made, obtained, collected, recorded, published or communicated by any 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 territories of Uganda unless the contrary is proved by the person accused.

(4) In any proceedings against a person for an offence under this section, the fact that he or she has been in communication with, or attempted to communicate with, an agent of a foreign power, whether within or without Uganda, shall be evidence that he or she has, for a purpose prejudicial to the safety or interests of the territories of Uganda obtained or attempted to obtain information that is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power.

(5) For the purposes of this section, but without prejudice to the generality of subsections (1) to (4), a person shall, unless he or she proves the contrary, be deemed to have been in communication with an agent of a foreign power if—

- (a) he or she has, either within or without Uganda, visited the

address of an agent of a foreign power or consorted or associated with such agent; or (b) either within or without Uganda the name or address of, or any other information regarding, such an 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.

### **3. Address of agent of foreign power.**

Any address, whether within or without Uganda, reasonably suspected of being an address used for the receipt of communications intended for an agent of a foreign power, or any address at which such an agent resides, or to which he or she resorts for the purpose of giving or receiving communications, or at which he or she carries on any business, shall be deemed to be the address of an agent of a foreign power, and communications addressed to that address to be communications with the agent.

### **4. Wrongful communication, etc. of information.**

(1) Any person who, having in his or her possession or control, any secret official code word, or password, or any sketch, plan, model, article, note, document or information that relates to or is used in a prohibited place or anything in such a place, or that has been made or obtained in contravention of this Act, or that has been entrusted in confidence to him or her by any person holding office under the Government or owing to his or her position as a person who holds or has held office under the Government, or as a person who holds or has held a contract made on behalf of the Government, or a contract the performance of which in whole or in part is carried out in a prohibited place, or as a person who is or has been employed under a person who holds or has held such an office or contract—

- (a) communicates the code word, password, sketch, plan, model, article, note, document or information to any person, other than a person to whom he or she is authorised to communicate with, or a person to whom it is in the interests of Uganda his or her duty to communicate it;
- (b) uses the information in his or her possession for the benefit of any foreign power or in any other manner;
- (c) 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 its return or disposal; or (d) 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 word or password or information, commits an offence under this Act.

(2) Any person who, having in his or her possession or control any sketch, plan, model, article, note, document or information that 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 Uganda, commits an offence under this Act.

(3) Any person who receives any secret official code word, or password, or sketch, plan, model, article, note, document or information, knowing or having reasonable grounds 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, commits an offence under 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.

Any person who—

retains for any purpose prejudicial to the safety or interests of Uganda 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 any person authorised by such department with regard to the return or disposal of the official document; or

allows any other person to have possession of any 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 officer,

(4)

(a)

(b)

commits an offence under this Act.

#### **5. Unauthorised use of uniforms, etc.**

Any person who, for the purpose of gaining admission, or of assisting any other person to gain admission, to a prohibited place, or for any other purpose prejudicial to the safety or interests of Uganda—

- (a) uses or wears, without lawful authority, any naval, army, air force, police or other official uniform or any uniform so nearly resembling an official uniform 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 any such uniform;
- (b) orally, or in writing in any declaration or application, or in any document signed by him or her on his or her behalf, knowingly makes or connives at the making of any false statement or any omission;
- (c) forges, alters or tampers with any passport or any naval, army, air force, police or official pass, permit, certificate, licence or other document of a similar character, or uses or has in his or her possession any such forged, altered or irregular official document;
- (d) personates or falsely represents himself or herself to be a person holding, or in the employment of a person holding office under the Government 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; or
- (e) uses, or has in his or her possession or under his or her control, without the authority of the Government department or the authority concerned, any die, seal or stamp of or belonging to or used, made or provided by any Government department, or by any diplomatic, naval, army or air force authority appointed by or acting under the authority of the Government, or any die, seal or stamp, so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or uses, or has in his or her possession, or under his or her control, any such counterfeited die, seal or stamp,

commits an offence under this Act.

**6. Interfering with officers of the police or members of the armed forces.**

No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede any police officer, or any member of the armed forces engaged on guard, sentry, patrol or other similar duty in relation to the prohibited place, and every person who contravenes this provision commits an offence under this Act.

**7. Production of telegrams.**

(1) Where it appears to the Minister that such a course is expedient in the public interest, he or she may, by warrant under his or her hand, require any 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 Uganda, to produce to him or her, or to any 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 to or received from any place out of Uganda by means of any such cable, wire or apparatus and all other papers relating to any such telegram.

(2) Any person who, on being required to produce any such original or transcript or paper as specified in subsection (1), refuses or neglects to do so commits an offence under this Act and is liable on conviction for each offence to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred pounds or to both.

**8. Harbouring spies.**

Any person who knowingly harbours any 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 any such persons to meet or assemble in any premises in his or her occupation or under his or her control, and every person who, having harboured any such person, or having permitted any such persons to meet or assemble in any premises in his or her occupation or under his or her control, wilfully omits or refuses to disclose to a police officer of or above the rank of assistant superintendent any information that it is in his or her power to give in relation to any such person, commits an offence under this Act.



## **9. Attempts, incitements, etc.**

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

## **10. Arrest without warrant.**

(1) Any person who is found committing an offence under this Act, or who is reasonably suspected of having committed, or having attempted to commit, or being about to commit, such an offence, may be arrested without a warrant and detained by any police officer for a period not exceeding twenty-four hours.

(2) Any person arrested under subsection (1) shall be brought before a magistrate on the expiry of the period of twenty-four hours whether or not the police inquiries are completed.

## **11. Search warrants.**

(1) If a magistrate 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 any police officer named in it to enter at any time any premises or place named in the warrant, if necessary by force, and to search the premises or place and every person found in it and to seize any sketch, plan, model, article, note or document, or anything that is evidence of an offence under this Act having been or being about to be committed, that he or she may find on the premises or place or on any such person, and with regard to or in connection with which he or she has reasonable grounds for suspecting that an offence under this Act has been or is about to be committed.

(2) Where it appears to a police officer of or above the rank of assistant superintendent that the case is one of great emergency and that in the interests of Uganda immediate action is necessary, he or she may by a written order under his or her hand give to any police officer the like authority as may be given by the warrant of a magistrate under this section.

## **12. Consent to prosecutions.**

(1) A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Director of Public Prosecutions.

(2) A person charged with an offence under this Act may be arrested, or a warrant for his or her arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Director of Public Prosecutions to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

## **13. Trials of offences committed outside Uganda.**

An act, omission or anything that would, by reason of this Act, be punishable as an offence if committed in Uganda shall if committed outside Uganda be an offence against this Act, triable and punishable in Uganda, in the following cases—

- (a) where the offender at the time of the commission was a citizen of Uganda;
- (b) where any code word, password, sketch, plan, model, article, note, document, information or other thing in respect of which an offender is charged was obtained by him or her or depends upon information that he or she obtained while owing allegiance to the Republic of Uganda.

## **14. Place of offence.**

(1) For the purposes of the trial of a person for an offence under this Act, the offence shall be deemed to have been committed either at the place in which the same actually was committed, or at any place in Uganda in which the offender may be found.

(2) In addition and without prejudice to any powers that a court may possess to order the exclusion of the public from any proceedings, if, in the course of proceedings before the court against any person for an offence under this Act or of the proceedings on appeal, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the interests of Uganda, that all or any portion of the public shall be excluded during any part of the hearing, the court may make an order

to that effect, but the passing of sentence shall in any case take place in public.

(3) Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation shall be guilty of the like offence unless he or she proves that the act or omission constituting the offence took place without his or her knowledge or consent.

## **15. Penalties.**

Where no specific penalty is provided in this Act, any person who commits an offence under this Act shall be deemed to be guilty of an indictable offence and is liable on conviction on indictment to imprisonment for a term not exceeding fourteen years; but that person may, at the election of the Director of Public Prosecutions, be prosecuted before a magistrate under Part XIV of the Magistrates Courts Act, and, if so prosecuted, shall be punishable by imprisonment for a term not exceeding seven years.

**History:** Cap. 311.

## **Cross Reference**

Magistrates Courts Act, Cap. 16.