

STATE SECRETS ACT, 1962 (ACT 101)

ARRANGEMENT OF SECTIONS

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REPUBLIC OF GHANA

**THE HUNDRED AND FIRST
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
THE STATE SECRETS ACT, 1962**

AN ACT respecting State Secrets.

DATE OF ASSENT: 20th February, 1962

BE IT ENACTED by the President and the National Assembly in this present Parliament assembled as follows:—

Section 1—Acts Prejudicial to Republic.

(1) Any person who, for any purpose prejudicial to the safety or interests of the Republic—

(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 that 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 the Republic, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, or his conduct, or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the Republic.

(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 Republic 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 has been in communication with, or attempted to communicate with, an agent of a foreign power, whether within or without Ghana, shall be evidence that he has, for a purpose prejudicial to the safety or interests of the Republic 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 the foregoing provisions,

(a) a person shall, unless he proves the contrary, be deemed to have been in communication with an agent of a foreign power if,

(i) he has, either within or without Ghana, visited the address of an agent of a foreign power or consorted or associated with such agent; or

(ii) either within or without Ghana, the name or address of, or any other information regarding such an agent has been found in his possession, or has been supplied by him to any other person, or has been obtained by him from any other person.

(6) Without prejudice to the generality of the foregoing provisions any act done without reasonable excuse by a public officer which amounts to a failure to perform in a proper manner any duty imposed upon him as such under this Act or which is otherwise prejudicial to the efficient operation of this Act shall constitute an offence under this Act.

(7) A public officer who commits an offence under the immediately preceding subsection shall be liable to any of the following penalties, that is to say,

(a) dismissal, that is termination of appointment with forfeiture of all retirement benefits;

(b) removal, that is termination of appointment with or without a reduction in retirement benefits;

(c) reduction in rank, that is removal to another grade with an immediate reduction of salary;

(d) reduction of salary, that is an immediate adjustment of salary to a lower point on the salary scale attached to the post in question;

(e) deferment of increment, that is a postponement of the date on which the next increment is due, with corresponding postponements in subsequent years;

(f) stoppage of increment, that is non-payment for a specified period of an increment otherwise due;

(g) in the case of persons holding category D posts, suspension from duty with consequent loss of pay and allowances for a period not exceeding fourteen days;

(h) reprimand.

(8) The President shall be the disciplinary authority for the purposes of subsection (7) of this section but may at any time delegate the exercise of his disciplinary authority to any person so appointed.

Section 2—Address of Agent of Foreign Power.

Any address, whether within or without Ghana, 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 resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of an agent of a foreign power, and communications addressed to the address to be communications with the agent.

Section 3—Wrongful Communication, Etc., of Information.

(1) Any person who, having in his 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 by any person holding office under the Republic or owing to his position as a person who holds or has held office under the Republic, or as a person who holds or has held a contract made on behalf of the Republic, 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 is authorized to communicate with, or a person to whom it is in the interest of the Republic his duty to communicate it;

(b) uses the information in his 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 possession or control when he has no right to retain it or when it is contrary to his duty to retain it or fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or

(d) fails to take reasonable care of, or so conducts himself 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 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 the Republic, 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 receives it, that the code word, password, sketch, plan, model, article, note, document or information is communicated to him in contravention of this Act, commits an offence under this Act, unless he proves that the communication to him of the code word,

password, sketch, plan, model, article, note, document or information was contrary to his desire.

(4) Any person who or—

(a) retains for any purpose prejudicial to the safety or interests of the Republic any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any Government department or any person authorized by such department with regard to the return or disposal thereof; or

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or password so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code word or password issued for the use of some person other than himself, 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 constable,

commits an offence under this Act.

Section 4—Unauthorized Use of Uniforms; Falsification of Reports, Forgery, Personation and False Documents.

(1) 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 the Republic,

(a) uses or wears, without lawful authority, any naval, army, air force, police or other official uniform or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself 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 on his 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 (hereinafter in this section referred to as an official document), or uses or has in his possession any such forged, altered, or irregular official document;

(d) personates, or falsely represents himself to be a person holding, or in the employment of a person holding office under the Republic, 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 any other person, knowingly makes any false statement; or

(e) uses, or has in his possession or under his 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 President, 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 possession, or under his control, any such counterfeited die, seal or stamp,

commits an offence under this Act.

(2) Any person who, without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid, commits an offence under this Act.

Section 5—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 constable or 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 acts in contravention of, or fails to comply with, this provision, commits an offence under this Act.

Section 6—Production of Telegrams.

(1) Where it appears to the Attorney-General that such a course is expedient in the public interest, he may, by warrant under his 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 Ghana, to produce to him, 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 Ghana by means of any such cable, wire, or apparatus and all other papers relating to any such telegram as aforesaid.

(2) Any person who, on being required to produce any such original or transcript or paper as aforesaid, refuses or neglects to do so commits an offence under this Act, and is for each offence, liable on summary conviction to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding two hundred pounds, or to both such imprisonment and fine.

Section 7—Harbouring Spies.

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

Section 8—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 had committed the offence.

Section 9—Arrest without Warrants.

(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 constable or police officer for a period not exceeding seventy-two hours.

(2) Any person arrested under the provisions of the preceding subsection shall be brought before a District Magistrate on the expiry of the period of seventy-two hours whether or not the police enquiries are completed.

Section 10—Search Warrants.

(1) If a District 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 may grant a search warrant authorizing any constable named therein, 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 therein, 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 may find on the premises or place or on any such person, and with regard to or in connection with which he 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 senior police officer that the case is one of great emergency and that in the interest of the Republic immediate action is necessary, he may by a written order under his hand give to any constable the like authority as may be given by the warrant of a District Magistrate under this section.

Section 11—Consent of Attorney-General to Prosecution.

(1) A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Attorney-General.

(2) A person charged with an offence under this Act may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General 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.

Section 12—Trials Of Offences Committed Outside Ghana.

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

(a) where the offender at the time of the commission was a citizen of the Republic of Ghana within the meaning of the Ghana Nationality Act, 1961 (Act 62);

(b) where any code word, password, sketch, plan, model, article, note, document, information or other thing whatsoever in respect of which an offender is charged was obtained by him, or depends upon information that he obtained, while owing allegiance to the President or the Republic.

Section 13—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 Ghana 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 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 the Republic, 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 proved that the act or omission constituting the offence took place without his knowledge or consent.

Section 14—Penalties.

(1) Where no specific penalty is provided in this Act, any person who is guilty of an offence under this Act shall be deemed to be guilty of an indictable offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding fourteen years; but such person may, at the election of the Attorney-General, be prosecuted summarily in the manner provided by the provisions of the Criminal Procedure Code 1960 (Act 30) relating to summary convictions, and, if so prosecuted, is punishable by fine not exceeding five hundred pounds, or by imprisonment not exceeding twelve months, or by both such fine and imprisonment.

Section 15—Interpretation.

(1) In this Act, unless the context otherwise requires

"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 Ghana prejudicial to the safety or interests of the Republic or who has or is reasonably suspected of having either within or without Ghana, committed, or attempted to commit such an act in the interest of a foreign power;

"document" includes part of a document;

"Minister" means the Minister responsible for internal security;

"model" includes design, pattern and specimen;

"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 thereof;

"offence under this Act" includes any act, omission, or other thing that is punishable hereunder;

"office under the Republic" includes any office or employment in or under any 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;

"prohibited place" means

(i) any work of defence belonging to or occupied or used by or on behalf of the Republic 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 thereto, or for the purpose of getting any metals, oil or minerals of use in time of war;

(ii) any place not belonging to the Republic where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person acting on behalf of the Republic;

(iii) any place that is for the time being declared by an executive instrument by the President to be a prohibited place on the ground that information with respect thereto or damage thereto would be useful to a foreign power;

"sketch" includes any mode of representing any place or thing;

"senior police officer" means any officer of the Police Service not below the rank of Assistant Superintendent or any person upon whom the powers of a senior police officer are for the purposes of this Act conferred by the President.

(2) 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 the substance, effect, or description thereof only is communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note, or document, include the copying or causing to be copied the whole or any part of any sketch, plan, model, article, note, or document; and 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.

Section 16—Repeal.

The Official Secrets (Northern and Upper Regions) Ordinance (Cap. 62) and section 192 of the Criminal Code (Act 29) are hereby repealed.