

CHAPTER 50

OFFICIAL SECRETS ACT

*Amended by:
XVIII. 1996.2.*

To protect official secrets.

(23rd February, 1923)*

Enacted by ORDINANCE III of 1923 (incorporating also ORDINANCE IX of 1934) as amended by: Legal Notice 46 of 1965; Acts: LVIII of 1974, XXVII of 1975; Legal Notice 148 of 1975; Acts: XXII of 1976, XLIX of 1981, XIII of 1983, VIII of 1990 and XVIII of 1996 and Legal Notice 407 of 2007.

1. This Act may be cited as the Official Secrets Act.

2. (1) In this Act, unless the context otherwise requires:
 - "disclose" and "disclosure" in relation to a document or other article, include parting with possession of it;
 - "document" includes part of a document;
 - "government contractor" means subject to article (3), any person who is not a public servant but who provides, or is employed in the provision of, goods or services -
 - (a) for the purposes of any Minister or Parliamentary Secretary, of any of the services, forces or bodies mentioned in the definition of public servant or of the holder of any office prescribed under that definition; or
 - (b) under an agreement or arrangement certified by the Prime Minister or by the Minister as being one to which the government of a State other than Malta or an international organisation is a party or which is subordinate to, or made for the purposes of implementing, any such agreement or arrangement;
 - "international organisation" means, subject to the following subarticles of this article, an organisation of which only States are members and includes a reference to any organ of such an organisation;
 - "Minister" means the Minister from time to time designated by the Prime Minister as being responsible for the Security Service;
 - "model" includes design, pattern, and specimen;
 - "munitions of war" includes the whole or any part of any ship, submarine, aircraft, tank, or similar engine, arms and ammunition, torpedo or mine intended or adapted for use in war, and any other article, material or device, whether actual or proposed, intended for such use;
 - "offence under this Act" includes any act, omission, or other

Short title.
*Amended by:
XVIII.1996.2.*

Interpretation.
*Amended by:
L.N.46 of 1965;
LVIII. 1974.68;
L.N. 148 of 1975;
XVIII.1996.2.
Substituted by:
XVIII.1996.3.*

*See Proclamation No. IV of 1923.

thing which is punishable under this Act;

"prescribed" means prescribed by an order made by the Prime Minister;

"prohibited place" means -

- (a) any work of defence, arsenal, naval military or airforce establishment or station, with the water adjacent thereto, factory, dockyard, mine, minefield, camp, ship or aircraft belonging to or occupied by or on behalf of the Government of Malta, or any telegraph, telephone, wireless or signal station or office so belonging or occupied, and any place belonging to or occupied by or on behalf of the Government of Malta and 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, oils or minerals of use in time of war; and
- (b) any place not belonging to the Government of Malta 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 on behalf of the Government of Malta or otherwise on behalf of the Government of Malta; and
- (c) any place belonging to or used for the purposes of the Government of Malta which is for the time being declared by the Prime Minister to be a prohibited place for the purposes of this article on the ground that information with respect thereto, or damage thereto, would be useful to any enemy; and
- (d) any road, way, or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water, or electricity works or other works for purposes of a public character, or any place where any munitions of war or any ships, arms, or other materials or instruments of use in time of war, or any sketches, models, plans or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of the Government of Malta, which is for the time being declared by the Prime Minister to be a prohibited place for the purposes of this article, on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to any enemy;

"public servant" means -

- (a) a Minister or Parliamentary Secretary;
- (b) any public officer;
- (c) any member of and any other person employed or appointed in or for the purposes of the Armed Forces

of Malta;

- (d) any member of and any other person employed or appointed in or for the purposes of the Malta Police Force as well as of any other disciplined force of the State;
- (e) any person who is a member or employee of a prescribed body or a body of a prescribed class and either is prescribed for the purposes of this paragraph or belongs to a prescribed class of members or employees of any such body;
- (f) any person who is the holder of a prescribed office or who is an employee of such a holder and either is prescribed for the purposes of this paragraph or belongs to a prescribed class of such employees;

"Security Service" means the service referred to in the [Security Service Act](#); Cap. 391.

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

"State" includes the government of a State and any organ of its government.

(2) In this Act -

expressions referring to communicating or receiving include any communication 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 be 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.

(3) Where an employee or class of employees of any body, or of any holder of an office, is prescribed by an order made for the purposes of the definition of public servant in subarticle (1) -

- (a) any employee of that body, or of the holder of that office, who is not prescribed or is not within the prescribed class; and
- (b) any person who does not provide, or is not employed in the provision of goods or services for the purposes of the performance of those functions of the body or the holder of the office in connection with which the employee or prescribed class of employees is engaged,

shall not be a government contractor for the purposes of this Act.

(4) (a) The reference to an international organisation in paragraph (b) of the definition of government contractor in subarticle (1) includes a reference to any such organisation whether or not one of which only States are members and includes a commercial organisation.

(b) In determining for the purposes of subarticle (1) whether only States are members of an organisation, any member which is itself an organisation of which only States are members, or which is an organ of such an organ of such an organisation, shall be treated as a State.

3. (1) If any person for any purpose prejudicial to the safety or interests of the State -

- (a) approaches, inspects, passes over or is in the neighbourhood of, or enters any prohibited place within the meaning of this Act; or
- (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy; or
- (c) obtains, collects, records, or publishes or communicates to any other person any secret official code word or password or 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 an enemy,

he shall be liable, on conviction, to imprisonment for any term not less than three years and not exceeding seven years.

(2) On a prosecution under this article, it shall not be necessary 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 State, 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 State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place within the meaning of this Act, 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 State unless the contrary is proved.

(3) The words "passes over" in subarticle (1)(a) include passing through the air over any prohibited place or in close proximity thereto.

Penalties for
spying.
Amended by:
XLIX.1981.4;
XVIII.1996.2.

4. (1) If any person for the purpose of gaining admission, or of assisting any other person to gain admission, to a prohibited place within the meaning of this Act, or for any other purpose prejudicial to the safety or interests of the State within the meaning of this Act-

- (a) uses or wears, without lawful authority, any naval, military, air-force, police, or other official uniform or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represent himself to be a person who is or has been entitled to use or wear any such uniform; or
- (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; or
- (c) forges, alters, or tampers within any passport or any naval, military, air-force, police or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this article referred to as an official document), or uses or has in his possession any such forged, altered, or irregular official document; or
- (d) personates, or falsely represents himself to be a public servant or a government contractor 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, military, or air-force authority appointed by or acting under the authority of the Government of Malta, 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,

he shall be liable, on conviction, to imprisonment for a term not exceeding two years or to a fine (*multa*) or to both such imprisonment and fine.

(2) If any person -

- (a) retains for any purpose prejudicial to the safety or interests of the State 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

Unauthorized use of uniforms, falsification of reports, personation and false documents.
Amended by:
L.N.148 of 1975;
XLIX. 1981.4;
XVIII.1996.2,4.

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; or
- (c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale any such die, seal or stamp as aforesaid,

he shall be liable, on conviction, to imprisonment for a term not exceeding two years or to a fine (*multa*) or to both such imprisonment and fine.

(3) In the case of any prosecution under this article involving the proof of a purpose prejudicial to the safety or interests of the State, article 3(2) shall apply in like manner as it applies to prosecutions under that article.

5. (1) In any proceedings against a person for an offence under article 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or outside Malta, shall be evidence that he has, for a purpose prejudicial to the safety or the interests of the State, obtained or attempted to obtain information which is calculated to be or might be or is intended to be directly or indirectly useful to any enemy.

(2) For the purpose of this article, but without prejudice to the generality of the foregoing provision -

- (a) a person shall, unless he proves the contrary, be deemed to have been in communication with a foreign agent if -
 - (i) he has either within or outside Malta, visited the address of a foreign agent or consorted or associated with a foreign agent; or
 - (ii) either, within or outside Malta, the name or address of, or any other information regarding a foreign 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;
- (b) the expression "foreign agent" includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign power or other

Evidence of
offence.
Amended by:
XVIII.1996.2.

foreign employer either directly or indirectly for the purpose of committing an act, either within or outside Malta, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or outside Malta, committed, or attempted to commit, such an act in the interests of a foreign power or hostile agency;

- (c) any address whether within or outside Malta, reasonably suspected of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign 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 a foreign agent, and communications addressed to such an addressee to be communications with a foreign agent.

6. (1) A person who is or has been -

- (a) a member of the Security Service, or
 (b) a person notified that he is subject to the provisions of this subarticle,

Security.
 Amended by:
L.N.148 of 1975;
XLIX. 1981.4.
 Substituted by:
XVIII.1996.5.

is guilty of an offence if without lawful authority he discloses any information, document or other article relating to Security which is or has been in his possession by virtue of his position as a member of that service or in the course of his work while the notification is or was in force.

(2) The reference in subarticle (1) to disclosing information relating to security includes a reference to making any statement which purports to be a disclosure of such information or is intended to be taken by those to whom it is addressed as being such a disclosure.

(3) A person who is or has been a public servant or government contractor is guilty of an offence if without lawful authority he makes a damaging disclosure of any information, document or other article relating to security which is or has been in his possession by virtue of his position as such but otherwise than as mentioned in subarticle (1).

(4) For the purposes of subarticle (3) a disclosure is damaging if:

- (a) it causes damage to the work of, or of any part of, the Security Service; or
 (b) it is of information or a document or other article which is such that its unauthorised disclosure would be likely to cause such damage or which falls within a class or description of information, documents or articles the unauthorised disclosure of which would be likely to have that effect.

(5) It is a defence for a person charged with an offence under

this article to prove that at the time of the alleged offence he did not know, and had no reasonable cause to believe, that the information, document or article in question related to security or, in the case of an offence under subarticle (3), that the disclosure would be damaging within the meaning of that subarticle.

(6) Notification that a person is subject to subarticle (1) shall be effected by a notice in writing served on him by the Prime Minister or the Minister; and such a notice may be served if, in the opinion of the Prime Minister or the Minister, the work undertaken by the person in question is or includes work connected with the Security Service and its nature is such that the interests of national security require that he should be subject to the provisions of that subarticle.

(7) Subject to subarticle (8), a notification for the purposes of subarticle (1) shall be in force for the period of five years beginning with the day on which it is served but may be renewed by further notices under subarticle (6) for periods of five years at a time.

(8) A notification for the purposes of subarticle (1) may at any time be revoked by a further notice in writing served by the Prime Minister or the Minister on the person concerned; and the Prime Minister or the Minister shall serve such a further notice as soon as, in his opinion, the work undertaken by that person ceases to be such as is mentioned in subarticle (6).

(9) In this article "security" means the work of, or in support of, the Security Service or any part of it, and references to information relating to security include references to information held or transmitted by that Service or by persons in support of, or of any part of it.

7. (1) A person who is or has been a public servant or government contractor is guilty of an offence if without lawful authority he makes a damaging disclosure of any information, document or other article relating to defence which is or has been in his possession by virtue of his position as such.

(2) For the purposes of subarticle (1) a disclosure is damaging if -

- (a) it damages the capability of, or of any part of, the armed forces to carry out their tasks or leads to loss of life or injury to members of those forces or serious damage to the equipment or installations of those forces; or
- (b) otherwise than as mentioned in paragraph (a), it endangers the interests of Malta abroad, seriously obstructs the promotion or protection by Malta of those interests or endangers the safety of Maltese citizens abroad; or
- (c) it is of information or of a document or article which is such that its unauthorised disclosure would be likely to have any of those effects.

Defence.
Added by:
XVIII.1996.5.

(3) It is a defence for a person charged with an offence under this article to prove that at the time of the alleged offence he did not know, and had no reasonable cause to believe, that the information, document or article in question related to defence or that its disclosure would be damaging within the meaning of subarticle (1).

(4) In this Article "defence" means -

- (a) the size, shape, organisation, logistics, order of battle, deployment, operations, state of readiness and training of the armed forces of Malta;
- (b) the weapons, stores or other equipment of those forces and the invention, development, production and operation of such equipment and research relating to it;
- (c) defence policy and strategy and military planning and intelligence;
- (d) plans and measures for the maintenance of essential supplies and services that are or would be needed in time of war.

8. (1) A person who is or has been a public servant or government contractor is guilty of an offence if without lawful authority he makes a damaging disclosure of -

International relations.
Added by:
XVIII.1996.5.

- (a) any information, document or other article relating to international relations; or
- (b) any confidential information, document or other article which was obtained from a State other than Malta or an international organisation,

being information or a document or article which is or has been in his possession by virtue of his position as a public servant or government contractor.

(2) For the purposes of subarticle (1) a disclosure is damaging if -

- (a) it endangers the interests of Malta abroad, seriously obstructs the promotion or protection by Malta of those interests or endangers the safety of Maltese citizens abroad; or
- (b) it is of information or of a document or article which is such that its unauthorised disclosure would be likely to have any of those effects.

(3) In the case of information or a document or article within paragraph (b) of subarticle (1) -

- (a) the fact that it is confidential, or
- (b) its nature or contents,

may be sufficient to establish for the purpose of paragraph (b) of subarticle (2) that the information, document or article is such that its unauthorised disclosure would be likely to have any of the effects there mentioned.

(4) It is a defence for a person charged with an offence under this article to prove that at the time of the alleged offence he did not know, and had no reasonable cause to believe, that the information, document or article in question was such as is mentioned in subarticle (1) or that its disclosure would be damaging within the meaning of that subarticle.

(5) In this article "international relations" means the relations between States, between international organisations or between one or more States and one or more such organisations and includes any matter relating to a State other than Malta or to an international organisation which is capable of affecting the relations of Malta with another State or with an international organisation.

(6) For the purposes of this article any information, document or article obtained from a State or organisation is confidential at any time while the terms on which it was obtained require it to be held in confidence or while the circumstances in which it was obtained make it reasonable for the State or organisation to expect that it would be so held.

Crime and special
investigation
powers.
Added by:
XVIII.1996.5.

9. (1) A person who is or has been a public servant or government contractor is guilty of an offence if without lawful authority he discloses any information, document or other article to which this article applies and which is or has been in his possession by virtue of his position as such.

(2) This article applies to any information, document or other article -

(a) the disclosure of which -

- (i) results in the commission of an offence; or
- (ii) facilitates an escape from legal custody or the doing of any other act prejudicial to the safekeeping of persons in legal custody; or
- (iii) impedes the prevention or detection of offences or the apprehension or prosecution of suspected offenders; or

(b) which is such that its unauthorised disclosure would be likely to have any of those effects.

(3) This article also applies to any information obtained by reason of action authorised by a warrant issued under article 6 of the [Security Service Act](#), or by an authorisation given under article 9 of that Act, any information relating to the obtaining of information by reason of any such action and any document or other article which is or has been used or held for use in, or has been obtained by reason of, any such action.

(4) It is a defence for a person charged with an offence under this article in respect of a disclosure falling within paragraph (a) of subarticle (2) to prove that at the time of the alleged offence he did not know, and had no reasonable cause to believe, that the disclosure would have any of the effects there mentioned.

(5) It is a defence for a person charged with an offence under

Cap. 391.

this article in respect of any other disclosure to prove that at the time of the alleged offence he did not know, and had no reasonable cause to believe, that the information, document or article in question was information or a document or article to which this article applies.

(6) In this article "legal custody" includes detention in pursuance of any enactment or any instrument made under an enactment.

10. (1) Subarticle (2) applies where -

- (a) any information, document or other article protected against disclosure by the foregoing provisions of this Act has come into a person's possession as a result of having been -
 - (i) disclosed (whether to him or another) by a public servant or government contractor without lawful authority; or
 - (ii) entrusted to him by a public servant or government contractor on terms requiring it to be held in confidence or in circumstances in which the public servant or Government contractor could reasonably expect that it would be so held; or
 - (iii) disclosed (whether to him or another) without lawful authority by a person to whom it was entrusted as mentioned in sub-paragraph (ii); and
- (b) the disclosure without lawful authority of the information, document or article by the person into whose possession it has come is not an offence under any of those provisions.

Information resulting from unauthorised disclosures or entrusted in confidence.
Added by:
XVIII.1996.5.

(2) Subject to subarticles (3) and (4), the person into whose possession the information, document or article has come is guilty of an offence if he discloses it without lawful authority knowing, or having reasonable cause to believe, that it is protected against disclosure by the foregoing provisions of this Act and that it has come into his possession as mentioned in subarticle (1).

(3) In the case of information or a document or article protected against disclosure by articles 6 to 8, a person does not commit an offence under subarticle (2) unless -

- (a) the disclosure by him is damaging; and
- (b) he makes it knowing, or having reasonable cause to believe, that it would be damaging;

and the question whether a disclosure is damaging shall be determined for the purposes of this subarticle as it would be in relation to a disclosure of that information, document or article by a public servant in contravention of article 6(3), article 7(1) or article 8(1).

(4) A person does not commit an offence under subarticle (2) in

respect of information or a document or other article which has come into his possession as a result of having been disclosed -

- (a) as mentioned in subarticle (1)(a)(i) by a government contractor; or
- (b) as mentioned in subarticle (1)(a)(iii),

unless that disclosure was by a Maltese citizen or took place in Malta.

(5) For the purposes of this article information or a document or article is protected against disclosure by the foregoing provisions of this Act if -

- (a) it relates to security, defence or international relations within the meaning of article 6, 7 or 8 or is such as is mentioned in article 8(1)(b); or
- (b) it is information or a document or article to which article 9 applies;

and information or a document or article is protected against disclosure by articles 6 to 8 if it falls within paragraph (a).

(6) A person is guilty of an offence if without lawful authority he discloses any information, document or other article which he knows, or has reasonable cause to believe to have come into his possession as a result of a contravention of article 3.

Information entrusted in confidence to other States or international organisations.
Added by:
XVIII.1996.5.

11. (1) This article applies where -

- (a) any information, document or other article which -
 - (i) relates to security, defence or international relations; and
 - (ii) has been communicated in confidence by or on behalf of Malta to another State or to an international organisation,

has come into a person's possession as a result of having been disclosed (whether to him or another) without the authority of that State or organisation or, in the case of an organisation, of a member of it; and

- (b) the disclosure without lawful authority of the information, document or article by the person into whose possession it has come is not an offence under any of the foregoing provisions of this Act.

(2) Subject to subarticle (3), the person into whose possession the information, document or article has come is guilty of an offence if he makes a damaging disclosure of it knowing, or having reasonable cause to believe, that it is such as is mentioned in subarticle (1), that it has come into his possession as there mentioned and that its disclosure would be damaging.

(3) A person does not commit an offence under subarticle (2) if the information, document or article is disclosed by him with lawful authority or has previously been made available to the public with the authority of the State or organisation concerned or, in the case of an organisation, of a member of it.

(4) For the purposes of this article "security", "defence" and "international relations" have the same meaning as in articles 6, 7 and 8 and the question whether a disclosure is damaging shall be determined as it would be in relation to a disclosure of the information, document or article in question by a public servant in contravention of article 6(3), article 7(1) and article 8(1).

(5) For the purposes of this article information or a document or article is communicated in confidence if it is communicated on terms requiring it to be held in confidence or in circumstances in which the person communicating it could reasonably expect that it would be so held.

- 12.** (1) For the purposes of this Act a disclosure by -
- (a) a public servant; or
 - (b) a person, not being a public servant or government contractor, in whose case a notification for the purposes of article 6(1) is in force,

Authorised disclosures.
Added by:
XVIII.1996.5.

is made with lawful authority if, and only if, it is made in accordance with his official duty.

(2) For the purposes of this Act a disclosure by a government contractor is made with lawful authority if, and only if, it is made -

- (a) in accordance with an official authorisation; or
- (b) for the purposes of the functions by virtue of which he is a government contractor and without contravening an official restriction.

(3) For the purposes of this Act a disclosure made by any other person is made with lawful authority if, and only if, it is made -

- (a) to a public Servant for the purposes of his functions as such; or
- (b) in accordance with an official authorisation.

(4) It is a defence for a person charged with an offence under any of the foregoing provisions of this Act to prove that at the time of the alleged offence he believed that he had lawful authority to make the disclosure in question and had no reasonable cause to believe otherwise.

(5) In this article "official authorisation" and "official restriction" mean, subject to subarticle (6), an authorisation or restriction duly given or imposed by a public servant or government contractor or by or on behalf of a prescribed body or a body of a prescribed class.

(6) In relation to article 11 "official authorisation" includes an authorisation duly given by or on behalf of the State or organisation concerned or, in the case of an organisation, a member of it.

Safe guarding of information.

Amended by:
L.N.46 of 1965;
LVIII. 1974.68;
XLIX. 1981.4;
XIII. 1983.5;
VIII. 1990.3.
 Added by:
XVIII.1996.5.

13. (1) Where a public servant or government contractor, by virtue of his position as such, has in his possession or under his control any document or other article which it would be an offence under any of the foregoing provisions of this Act for him to disclose without lawful authority he is guilty of an offence if -

- (a) being a public servant, he retains the document or article contrary to his official duty; or
- (b) being a government contractor, he fails to comply with an official direction for the return or disposal of the document or article,

or if he fails to take such care to prevent the unauthorised disclosure of the document or article as a person in his position may reasonably be expected to take.

(2) It is a defence for a public servant charged with an offence under subarticle (1)(a) to prove that at the time of the alleged offence he believed that he was acting in accordance with his official duty and had no reasonable cause to believe otherwise.

(3) In subarticles (1) and (2) references to a public servant include any person, not being a public servant or government contractor, in whose case a notification for the purposes of article 6(1) is in force.

(4) Where a person has in his possession or under his control any document or other article which it would be an offence under article 10 for him to disclose without lawful authority, he is guilty of an offence if -

- (a) he fails to comply with an official direction for its return or disposal; or
- (b) where he obtained it from a public servant or government contractor on terms requiring it to be held in confidence or in circumstances in which that servant or contractor could reasonably expect that it would be so held, he fails to take such care to prevent its unauthorised disclosure as a person in his position may reasonably be expected to take.

(5) Where a person has in his possession or under his control any document or other article which it would be an offence under article 11 for him to disclose without lawful authority, he is guilty of an offence if he fails to comply with an official direction for its return or disposal.

(6) A person is guilty of an offence if he discloses any official information, document or other article which can be used for the purpose of obtaining access to any information, document or other article protected against disclosure by the foregoing provisions of this Act and the circumstances in which it is disclosed are such that it would be reasonable to expect that it might be used for that purpose without authority.

(7) For the purposes of subarticle (6) a person discloses information or a document or article which is official if -

- (a) he has or has had it in his possession by virtue of his position as a public servant or government contractor; or
- (b) he knows or has reasonable cause to believe that a public servant or government contractor has or has had it in his possession by virtue of his position as such.

(8) Article 10(5) applies for the purposes of subarticle (6) as it applies for the purposes of that article.

(9) In this article "official direction" means a direction duly given by a public servant or government contractor or by or on behalf of a prescribed body or a body of a prescribed class.

14. (1) Every person charged with an offence under articles 6 to 13 other than article 13(1), (4) or (5) shall be liable, on conviction, in respect of each offence, to imprisonment for a term not exceeding two years or to a fine (*multa*) not exceeding eleven thousand and six hundred and forty-six euros and eighty-seven cents (11,646.87) or to both such imprisonment and fine.

Penalties.
Added by:
XVIII.1996.5.
Amended by:
L.N. 407 of 2007.

(2) A person guilty of an offence under article 13(1), (4) or (5) shall be liable on conviction to imprisonment for a term not exceeding three months or a fine (*multa*) not exceeding four thousand and six hundred and fifty-eight euros and seventy-five cents (4,658.75) or to both such imprisonment and fine.

15. Any person charged with an offence which is a crime under this Act may, if the circumstances warrant such a finding, be found guilty of a contravention under this Act, and shall be liable, on conviction, to imprisonment for a term not exceeding one month or to a fine (*multa*) not exceeding two hundred and thirty-two euros and ninety-four cents (232.94) or to both such imprisonment and fine.

Persons charged with a crime may be convicted of a contravention.
Amended by:
XLIX. 1981.4;
XIII.1983.5;
XVIII.1996.2,6;
L.N. 407 of 2007.

16. 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 apprehended and detained by any person, whether a Police officer or not, without any warrant or other authority.

Power of arrest.
Amended by:
XVIII.1996.2.

17. If any person 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, or if any person 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 an officer of Police not below the rank of inspector any information which it is in his power to give in relation to any such person or persons he shall be liable, on conviction, to imprisonment for a term not exceeding one year, or to a fine (*multa*) or to both such imprisonment and fine.

Penalty for harbouring spies.
Amended by:
XLIX. 1981.4;
XVIII.1996.2.

Restriction on prosecution.
Amended by:
L.N. 46 of 1965;
LVIII. 1974.68;
XVIII.1996.2,7.

18. A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Attorney General:

Provided that a person charged with such an offence 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.

Search warrants.
Amended by:
XVIII.1996.2, 8.

19. (1) If a magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act, other than an offence under article 13(1), (4) and (5), has been or is about to be committed, he may grant a search warrant authorizing any Police officer 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 of a like nature or anything which is evidence of an offence under this Act other than an offence under article 13(1), (4) and (5) having been or being about to be committed, which he may find on the premises or place or upon any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act, other than an offence under article 13 (1), (4) and (5), has been or is about to be committed.

(2) Where it appears to a superintendent of Police that the case is one of great emergency and that in the interest of the State immediate action is necessary, he may by a written order under his hand give to any Police officer the like authority as may be given by the warrant of a magistrate under this article.

Interfering with officers of the Police or members of the armed forces of Malta.
Amended by:
L.N. 148 of 1975;
XLIX. 1981.4;
XVIII.1996.2.

20. 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 of Malta engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place, and, if any person acts in contravention of, or fails to comply with this provision, he shall be liable, on conviction, to imprisonment for a term not exceeding one year, or to a fine (*multa*) or to both such imprisonment and fine.

Registration and regulation of persons carrying on business of receiving packets.
Amended by:
XXII. 1976.4;
XLIX. 1981.4;
XIII.1983.5;
VIII. 1990.3;
XVIII.1996.2,9;
L.N. 407 of 2007.

21. (1) Every person who carries on, whether alone or in conjunction with any other business, the business of receiving for reward letters, communications, or other packets for delivery or for forwarding to the persons for whom they are intended, shall, as soon as may be, send to the Commissioner of Police, for registration by him, notice of the fact together with the address or addresses where the business is carried on; and the Commissioner of Police shall keep a register of the names and addresses of such persons, and shall, if required by any person who sends such a notice, furnish him on payment of a fee of twelve cents (0.12) with a certificate of registration; and every person so registered shall from time to time furnish to the Commissioner of Police notice of any change of address or new address at which the business is

carried on, and such other information as may be required by the Commissioner of Police for the purpose of maintaining the correctness of the particulars entered in the register.

(2) Every person who carries on such a business as aforesaid shall make a record for retention purposes the following particulars:

- (a) the name and address of every person for whom any packet is received, or who has requested that packets received may be delivered or forwarded to him;
- (b) any instructions that may have been received as to the delivery or forwarding of packets;
- (c) in the case of every packet received the place from which the packet comes, and the date of sending and the date of receipt, and the name and address of the sender if shown on the outside of the packet, and, in the case of a registered packet, the date and office of registration and the number of the registered packet;
- (d) in the case of every packet delivered, the date of delivery and the name and address of the person to whom it is delivered;
- (e) in the case of every packet forwarded, the name and address to which and the date on which it is forwarded,

and shall not deliver a packet to any person until that person has signed a receipt for the same, nor, if that person is not the person to whom the packet is addressed, unless there are left with him instructions signed by the last mentioned person as to the delivery thereof, and shall not forward any packet to another address unless there are left with him written instructions to that effect signed by the addressee.

(3) The records so kept by any such person, shall be kept at all reasonable times open to inspection by any Police officer.

(4) If any person contravenes or fails to comply with any of the provisions of this article, or furnishes any false information or makes any false entry, he shall, for each offence, be liable, on conviction by a Court of Magistrates (Malta) or the Court of Magistrates (Gozo) as the case may be, to imprisonment for a term not exceeding one month, or to a fine (*multa*) not exceeding two hundred and thirty-two euros and ninety-four cents (232.94), or to both such imprisonment and fine.

(5) Nothing in this article shall apply to packets addressed, to any office where any newspaper or periodical is published, being packets in reply to advertisements appearing in such newspaper or periodical.

(6) Nothing in this article shall be construed as rendering legal anything which would be in contravention of the executive privilege of the Postmaster General under the [Post Office Act](#).

Cap. 254.

(7) For the purposes of this article the word "packet" shall have the same meaning attributed to the word "packet" in article 2 of the [Post Office Act](#).

Cap. 254.

Duty of giving information as to the commission of offences.

Amended by:
L.N. 148 of 1975;
XLIX. 1981.4;
XVIII.1996.2.

22. It shall be the duty of every person to give on demand to any Police officer not below the rank of inspector appointed by the Commissioner of Police for the purpose, or to any member of the armed forces of Malta engaged on guard, sentry, patrol, or other similar duty, any information in his power relating to an offence or suspected offence under this Act, and, if so required, and upon tender of his reasonable expenses, to attend at such time and place as may be specified for the purpose of furnishing such information, and if any person fails to give any such information or to attend as aforesaid, he shall be liable, on conviction, to imprisonment for a term not exceeding two years or to a fine (*multa*) or to both such imprisonment and fine.

Attempt, incitement, etc., to commit offence.

Amended by:
XVIII.1996.2.

23. 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 under this Act, or aids or abets and does any act preparatory to the commission of an offence under this Act, shall be liable to the same punishment, and to be proceeded against in the same manner, as if he had committed the offence.

Public may, in certain cases, be excluded during any part of the hearing.

Amended by:
L.N. 46 of 1965;
LVIII. 1974.68;
L.N. 148 of 1975;
XXVII.1975.40,
(1),(3);
XVIII.1996.2,10.

24. (1) In addition and without prejudice to any powers which a court may possess to order the exclusion of the public from any proceedings if, in the course of any proceedings before a court against any person for an offence under this Act, other than an offence under article 13(1), (4) or (5), or of any 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 national safety, 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 every case take place in public.

Section 3 of Ord.IX of 1934, incorporated.

(2) In passing sentence upon any person charged with an offence under this Act, other than an offence under article 13(1), (4) or (5), the court shall state separately in writing the reasons on which such sentence is based:

Public may be excluded during delivery of reasons on which sentence is based.

Provided always that if application is made by the prosecution, on the ground that the publication of such reasons would or might be prejudicial to the national safety, that the public shall be excluded during the delivery of such reasons, the court shall make an order to that effect, but the passing of sentence shall take place in public:

Provided also that if the said reasons are not delivered in public, they shall not be inserted in the record of the proceedings, but shall be kept by the Registrar under seal and shall not be open to inspection by any person without the permission of the Attorney General in writing.

(3) Notwithstanding anything to the contrary contained in any other law, any person indicted for an offence under this Act, other than an offence under article 13(1), (4) or (5), before the Criminal Court, shall be tried by such court sitting without a jury. In any such case the said court shall be composed of three judges to be appointed by the President of Malta and the provisions of the Criminal Code shall apply so far as applicable.

Offences to be tried by Criminal Court composed of three judges sitting without a jury. *Section 2 of Ord. IX of 1934, incorporated. Cap. 9.*

25. 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 proves that the act or omission constituting the offence took place without his knowledge.

Proceedings against companies. *Amended by: XVIII.1996.2.*

26. (1) The Prime Minister may by order prescribe anything that in accordance with this Act may be prescribed.

Orders. *Added by: XVIII.1996.11.*

(2) Any power of the Prime Minister or the Minister under this Act to make orders shall be exercisable by legal notice.

27. Any act done by a Maltese citizen or public servant shall, if it would be an offence by that person under any provision of this Act when done by him in Malta, be an offence under that provision wherever such offence may have been done.

Acts done abroad. *Added by: XVIII.1996.11.*