STATUTORY INSTRUMENTS

2024 No. 993

NATIONAL SECURITY

OVERSEAS TERRITORIES

The National Security Act 2023 (Sovereign Base Areas) Order 2024

Made - - - -	*2nd October 2024*
Coming into force - -	*23rd October 2024*

At the Court at Buckingham Palace, the 2nd day of October 2024

Present,

The King's Most Excellent Majesty in Council

His Majesty, in exercise of the powers conferred upon Him by sections 99(2) and (3) of the National Security Act 2023(**a**), is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and extent

1.—(1) This Order may be cited as the National Security Act 2023 (Sovereign Base Areas) Order 2024.

(2) This Order comes into force on 23rd October 2024.

(3) This Order extends to the Sovereign Base Areas.

Interpretation

2. In this Order—

"the Act" means the provisions of the UK Act as set out in the Schedule, including the modifications as set out in that Schedule;

"the Crown" means His Majesty in right of His Administration of the Sovereign Base Areas and in right of His Government of the United Kingdom;

"Sovereign Base Areas" means the Sovereign Base Areas of Akrotiri and Dhekelia, as referred to in section 2(1) of the Cyprus Act 1960(**b**);

(**a**) 2023 c. 32.
(**b**) 1960 c. 52.

"the UK Act" means the National Security Act 2023, as it has effect in the United Kingdom.

Extension of provisions of the National Security Act 2023 to the Sovereign Base Areas

3. The Act extends to the Sovereign Base Areas.

Saving provision

4. Notwithstanding the commencement of paragraphs 1 to 3 of Schedule 18 to the Act, the following enactments will continue to have effect in relation to conduct taking place, including offences suspected to have been committed, before 23rd October 2024—

(a) Official Secrets Act 1911(**a**);

(b) Official Secrets Act 1920(**b**);

(c) Official Secrets Act 1939(**c**).

Richard Tilbrook
Clerk of the Privy Council

(**a**) 1911 c. 28.
(**b**) 1920 c. 75.
(**c**) 1939 c. 121.

SCHEDULE

Articles 2 and 3

Provisions of the National Security Act 2023 applying in the Sovereign Base Areas

"PART 1

ESPIONAGE, SABOTAGE AND PERSONS ACTING FOR FOREIGN POWERS

Espionage etc

1 Obtaining or disclosing protected information

(1) A person commits an offence if—

(a) the person—

(i) obtains, copies, records or retains protected information, or

(ii) discloses or provides access to protected information,

(b) the person's conduct is for a purpose that they know, or having regard to other matters known to them ought reasonably to know, is prejudicial to the safety or interests of the United Kingdom or the Sovereign Base Areas, and

(c) the foreign power condition is met in relation to the person's conduct (see section 31).

(2) In this section, "protected information" means any information, document or other article where, for the purpose of protecting the safety or interests of the United Kingdom or the Sovereign Base Areas—

(a) access to the information, document or other article is restricted in any way, or

(b) it is reasonable to expect that access to the information, document or other article would be restricted in any way.

(3) Subsection (1) applies whether the person's conduct takes place in the Sovereign Base Areas or elsewhere.

(4) A person who commits an offence under this section is liable on conviction to imprisonment for life or an unlimited fine (or both).

(5) For the purposes of this section—

(a) a person retains protected information if the person retains it in their possession or under their control;

(b) disclosure includes parting with possession.

2 Obtaining or disclosing trade secrets

(1) A person commits an offence if—

(a) the person—

(i) obtains, copies, records or retains a trade secret, or

(ii) discloses or provides access to a trade secret,

(b) the person's conduct is unauthorised,

(c) the person knows, or having regard to other matters known to them ought reasonably to know, that their conduct is unauthorised, and

(d) the foreign power condition is met in relation to the person's conduct (see section 31).

(2) A "trade secret" means any information, document or other article which—

(a) is not generally known by, or available to, persons with knowledge of or expertise in the field to which it relates,

(b) has actual or potential industrial, economic or commercial value which would be, or could reasonably be expected to be, adversely affected if it became generally known by, or available to, such persons, and

(c) could reasonably be expected to be subject to measures to prevent it becoming generally known by, or available to, such persons (whether or not it is actually subject to such measures).

(3) A person's conduct is unauthorised if the person—

(a) is not entitled to determine whether they may engage in the conduct, and

(b) does not have consent to engage in the conduct from a person who is so entitled.

(4) Subsection (1) applies whether the person's conduct takes place in the Sovereign Base Areas or elsewhere (but see subsection (5)).

(5) Conduct within subsection (1) which takes place wholly outside the Sovereign Base Areas constitutes an offence only if the trade secret is in the possession or under the control of a UK person.

(6) A "UK person" means—

(a) a United Kingdom national;

(b) an individual who lives in the United Kingdom;

(c) a body incorporated under the law of a part of the United Kingdom;

(d) an unincorporated association formed under the law of a part of the United Kingdom.

(7) A "United Kingdom national" is an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981(**a**) is a British subject, or

(c) a British protected person within the meaning of that Act.

(8) A person who commits an offence under this section is liable on conviction to imprisonment for a term not exceeding 14 years or an unlimited fine (or both).

(9) For the purposes of this section—

(a) a person retains a trade secret if they retain it in their possession or under their control;

(b) disclosure includes parting with possession.

(**a**) 1981 c. 61.

3 Assisting a foreign intelligence service

(1) A person commits an offence if the person—

(a) engages in conduct of any kind, and

(b) intends that conduct to materially assist a foreign intelligence service in carrying out UK-related or SBA-related activities.

(2) A person commits an offence if the person—

(a) engages in conduct that is likely to materially assist a foreign intelligence service in carrying out UK-related or SBA-related activities, and

(b) knows, or having regard to other matters known to them ought reasonably to know, that their conduct is likely to materially assist a foreign intelligence service in carrying out UK-related or SBA-related activities.

(3) Conduct that may be likely to materially assist a foreign intelligence service includes providing, or providing access to, information, goods, services or financial benefits (whether directly or indirectly).

(4) For the purposes of subsections (1) and (2) it is not necessary to identify a particular foreign intelligence service.

(5) Subsections (1) and (2) apply to conduct outside the Sovereign Base Areas, but apply to conduct taking place wholly outside the Sovereign Base Areas only if the person engaging in the conduct—

(a) is a UK person, or

(b) acts for or on behalf of, or holds office under, the Crown, or is in Crown employment (whether or not they engage in the conduct in that capacity).

(6) In proceedings for an offence under this section it is a defence to show that the person engaged in the conduct in question—

(a) in compliance with a legal obligation under the law of the United Kingdom or the Sovereign Base Areas which is not a legal obligation under private law,

(b) in the case of a person having functions of a public nature under the law of the United Kingdom or the Sovereign Base Areas, for the purposes of those functions,

(c) as a lawyer carrying on a legal activity, or

(d) in accordance with, or in relation to UK-related or SBA-related activities carried out in accordance with, an agreement or arrangement to which—

(i) the United Kingdom was, or the Sovereign Base Areas were, a party, or

(ii) any person acting for or on behalf of, or holding office under, the Crown was (in that capacity) a party.

(7) A person is taken to have shown a matter mentioned in subsection (6) if—

(a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and

(b) the contrary is not proved beyond reasonable doubt.

(8) A person who commits an offence under this section is liable on conviction to imprisonment for a term not exceeding 14 years or an unlimited fine (or both).

(9) In this section—

"Crown employment" means employment under or for the purposes of a government department or the Sovereign Base Areas Administration or any officer or body exercising on behalf of the Crown functions conferred by an enactment;

"financial benefit" means money or money's worth;

"foreign intelligence service" means any person whose functions include carrying out intelligence activities for or on behalf of a foreign power;

the "law of the United Kingdom" includes the law of any part of the United Kingdom;

"lawyer" means—

(a) in England and Wales, a person who for the purposes of the Legal Services Act 2007(**a**) is an authorised person in relation to an activity that constitutes a reserved legal activity (within the meaning of that Act),

(b) a solicitor or barrister in Northern Ireland,

(c) a solicitor or advocate in Scotland,

(d) in the Sovereign Base Areas, an advocate under the Advocates Ordinance 2011(**b**), or

(e) a person who is a member, and entitled to practise as such, of a legal profession regulated in a jurisdiction outside the United Kingdom or the Sovereign Base Areas;

"legal activity" means—

(a) in England and Wales, a legal activity within the meaning of section 12 of the Legal Services Act 2007,

(b) in Northern Ireland, a legal activity within the meaning of that section, but reading the reference to an activity which is a reserved legal activity as a reference to an activity corresponding to a reserved legal activity,

(c) in Scotland, the provision of legal services within the meaning of section 3 of the Legal Services (Scotland) Act 2010(**c**),

(d) in the Sovereign Base Areas, practising as an advocate, or

(e) acting as an arbitrator or mediator;

"SBA-related activities" means—

(a) activities taking place in the Sovereign Base Areas;

(b) activities taking place outside the Sovereign Base Areas which are prejudicial to the safety or interests of the Sovereign Base Areas;

"UK person" has the same meaning as in section 2;

"UK-related activities" means—

(a) activities taking place in the United Kingdom;

(b) activities taking place outside the United Kingdom which are prejudicial to the safety or interests of the United Kingdom.

(**a**) 2007 c. 29.
(**b**) Ordinance 11/2011.
(**c**) 2010 asp 16.

4 Entering etc a prohibited place for a purpose prejudicial to the United Kingdom or the Sovereign Base Areas

(1) A person commits an offence if—

(a) the person—

(i) accesses, enters, inspects, passes over or under, approaches or is in the vicinity of a prohibited place, or

(ii) causes an unmanned vehicle or device to access, enter, inspect, pass over or under, approach or be in the vicinity of a prohibited place, and

(b) that conduct is for a purpose that the person knows, or having regard to other matters known to them ought reasonably to know, is prejudicial to the safety or interests of the United Kingdom or the Sovereign Base Areas.

(2) In subsection (1)(a) a reference to inspecting a prohibited place includes—

(a) taking, or procuring the taking of, photographs, videos or other recordings of the prohibited place;

(b) inspecting photographs, videos or other recordings of the prohibited place.

(3) For the purposes of this section, a person engages in conduct mentioned in subsection (1)(a) if the person does so in person or by electronic or remote means.

(4) Subsection (1) applies whether the person's conduct takes place in the Sovereign Base Areas or elsewhere.

(5) A person who commits an offence under this section is liable on conviction to imprisonment for a term not exceeding 14 years or an unlimited fine (or both).

(6) In this Part "vehicle" means any form of transport.

5 Unauthorised entry etc to a prohibited place

(1) A person commits an offence if—

(a) the person—

(i) accesses, enters, inspects or passes over or under a prohibited place, or

(ii) causes an unmanned vehicle or device to access, enter, inspect or pass over or under a prohibited place,

(b) that conduct is unauthorised, and

(c) the person knows, or having regard to other matters known to them ought reasonably to know, that their conduct is unauthorised.

(2) A person's conduct is unauthorised if the person—

(a) is not entitled to determine whether they may engage in the conduct, and

(b) does not have consent to engage in the conduct from a person so entitled.

(3) In subsection (1)(a) a reference to inspecting a prohibited place includes taking, or procuring the taking of, photographs, videos or other recordings of the prohibited place.

(4) For the purposes of this section, a person engages in conduct mentioned in subsection (1)(a) if the person does so in person or by electronic or remote means.

(5) A person who commits an offence under this section is liable on conviction to imprisonment for a term not exceeding 12 months or an unlimited fine (or both).

6 Powers of police officers in relation to a prohibited place

(1) A police officer may order—

(a) a person not to engage, or to cease to engage, in conduct mentioned in section 4(1)(a) (whether in person or by electronic or remote means) in relation to a prohibited place;

(b) a person who has accessed or entered a prohibited place (whether in person or by electronic or remote means) to leave it immediately;

(c) a person in an area adjacent to a prohibited place to leave the area immediately;

(d) the driver or person in charge of a vehicle or device (whether in person or by electronic or remote means) in a prohibited place, or in an area adjacent to a prohibited place, to move the vehicle or device from the place or area immediately.

(2) A police officer may arrange for—

(a) the removal of a vehicle or device from a prohibited place or an area adjacent to a prohibited place;

(b) the movement of a vehicle or device within a prohibited place or an area adjacent to a prohibited place.

(3) A police officer may not exercise a power under subsection (1) or (2) unless the officer reasonably believes that exercising the power is necessary to protect the safety or interests of the United Kingdom or the Sovereign Base Areas.

(4) A person commits an offence if the person fails to comply with an order imposed under subsection (1).

(5) A person who commits an offence under this section is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding €2,500 (or both).

7 Meaning of "prohibited place"

(1) In this Part "prohibited place" means—

(a) Crown land in the United Kingdom or the Sovereign Base Areas which is used—

(i) for UK defence purposes;

(ii) for extracting any metals, oil or minerals for use for UK defence purposes;

(iii) for the purposes of the defence of a foreign country or territory;

(b) a vehicle—

(i) situated in the United Kingdom or the Sovereign Base Areas which is used for UK defence purposes or for the purposes of the defence of a foreign country or territory;

(ii) not so situated which is used for UK defence purposes;

(c) any land or building in the United Kingdom or the Sovereign Base Areas which is used for the purposes described in subsection (2)(b) or (3)(b) (or both);

(d) any land or building in the United Kingdom or the Sovereign Base Areas which is—

(i) owned or controlled by the Security Service, the Secret Intelligence Service or GCHQ, and

(ii) used for the functions of the Security Service, the Secret Intelligence Service or GCHQ;

(e) any land or building or vehicle designated as a prohibited place in regulations made under section 8.

(2) In subsection (1) use for UK defence purposes means use for the purposes of—

(a) the activities of the armed forces of the Crown,

(b) the invention, development, production, operation, storage or disposal of weapons or other equipment or capabilities of those forces and research relating to it,

(c) United Kingdom defence policy and strategy and military planning and intelligence, or

(d) plans and measures for the maintenance of essential supplies and services that are or would be needed by the United Kingdom in time of war.

(3) In subsection (1) use for the purposes of the defence of a foreign country or territory means use for the purposes of—

(a) the activities of the armed forces of the foreign country or territory, or

(b) the invention, development, production, operation, storage or disposal of weapons or other equipment or capabilities of those forces and research relating to it.

(4) In this section—

"building" includes any part of a building;

"Crown land" means any land or building in which there is a Crown interest or a Duchy interest;

"Crown interest" means any of the following—

(a) an interest belonging to His Majesty in right of the Crown or in right of His private estates;

(b) an interest belonging to a United Kingdom government department or the Sovereign Base Areas Administration or held in trust for His Majesty for the purposes of a United Kingdom government department or the Sovereign Base Areas Administration;

"Duchy interest" means an interest belonging to His Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall;

"foreign country or territory" means a country or territory outside the United Kingdom, the Channel Islands, the Isle of Man or the British Overseas Territories;

"GCHQ" means the Government Communications Headquarters, including any unit or part of a unit of the armed forces of the Crown which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in carrying out its functions.

(5) In subsection (4) the reference to His Majesty's private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862(**a**).

8 Power to designate additional sites as prohibited places

(1) The Administrator may by regulations designate—

(a) land or a building situated in the Sovereign Base Areas,

(b) a vehicle, or

(c) land or a building situated in the United Kingdom that has been designated as a prohibited place in regulations made under the UK Act,

as a prohibited place.

(2) The power in subsection (1) may be exercised only if, having regard to the matters mentioned in subsection (3), the Administrator reasonably considers it necessary to do so in order to protect the safety or interests of the United Kingdom or the Sovereign Base Areas.

(3) Those matters are—

(a) the purpose for which the land or building or vehicle is used;

(b) the nature of any information held, stored or processed on the land or in the building or vehicle;

(c) the nature of any technology, equipment or material located on the land or in the building or vehicle.

(4) The power in subsection (1) may be exercised in relation to—

(a) a description of land or buildings, or

(b) a description of vehicle,

as well as in relation to particular land or buildings or a particular vehicle.

(5) In this section "building" includes any part of a building.

9 Power to designate a cordoned area to secure defence aircraft

(1) A police officer may designate an area as a cordoned area.

(2) A police officer may designate an area under subsection (1) only if the officer considers it expedient to do so for the purposes of securing—

(a) an aircraft, or a part of an aircraft, used for military purposes, or

(b) equipment relating to such an aircraft.

(3) If a designation is made orally, the police officer making the designation must confirm it in writing as soon as is reasonably practicable.

(4) A police officer making a designation must, as soon as is reasonably practicable—

(a) make a written record of the time at which the designation was made, and

(b) ensure that a police officer of at least the rank of Superintendent is informed.

(5) An officer who is informed of a designation in accordance with subsection (4)(b) must—

(**a**) 1862 c. 37.

(a) confirm the designation or cancel it with effect from such time as the officer may direct, and

(b) if the officer cancels the designation, make a written record of the cancellation and the reason for it.

(6) A police officer making a designation must arrange for the demarcation of the cordoned area, so far as is reasonably practicable—

(a) by means of tape marked with the word "police", or

(b) in such other manner as the officer considers appropriate.

10 Duration of cordon

(1) A designation under section 9 has effect, subject to subsections (2) to (5), during the period—

(a) beginning at the time when it is made, and

(b) ending with a date or at a time specified in the designation.

(2) The date or time specified under subsection (1)(b) must not be later than the end of the period of 14 days beginning with the day on which the designation is made.

(3) A police officer may extend from time to time the period during which a designation has effect.

(4) An extension under subsection (3) must—

(a) be in writing, and

(b) specify the additional period during which the designation is to have effect.

(5) An extension under subsection (3) must not provide for a designation to have effect after the end of the period of 28 days beginning with the day on which the designation is made.

11 Powers of police in relation to a cordoned area

(1) A police officer may order—

(a) a person not to do any of the following (whether in person or by electronic or remote means)—

(i) enter, inspect, pass over or under, approach or be in the vicinity of a cordoned area, or

(ii) cause an unmanned vehicle or device to enter, inspect, pass over or under, approach or be in the vicinity of a cordoned area;

(b) a person in a cordoned area (whether in person or by electronic or remote means) to leave it immediately;

(c) a person in an area adjacent to a cordoned area to leave the area immediately;

(d) the driver or person in charge of a vehicle or device (whether in person or by electronic or remote means) in a cordoned area to move the vehicle or device from the area immediately.

(2) In subsection (1) a reference to inspecting a cordoned area includes taking or procuring the taking of photographs, videos or other recordings.

(3) A police officer may arrange for—

(a) the removal of a vehicle or device from a cordoned area;

(b) the movement of a vehicle or device within a cordoned area.

(4) A person commits an offence if the person fails to comply with an order imposed under subsection (1).

(5) It is a defence for a person charged with an offence under subsection (4) to show that the person had a reasonable excuse for that failure.

(6) A person is taken to have shown a matter mentioned in subsection (5) if—

(a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and

(b) the contrary is not proved beyond reasonable doubt.

(7) A person who commits an offence under subsection (4) is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding €2,500 (or both).

(8) In this section "cordoned area" means an area designated as a cordoned area under section 9.

Sabotage

12 Sabotage

(1) A person commits an offence if—

(a) the person engages in conduct that results in damage to any asset,

(b) the person intends their conduct to result in damage to an asset, or is reckless as to whether their conduct will result in damage to an asset,

(c) the person's conduct is for a purpose that they know, or having regard to other matters known to them ought reasonably to know, is prejudicial to the safety or interests of the United Kingdom or the Sovereign Base Areas, and

(d) the foreign power condition is met in relation to the person's conduct (see section 31).

(2) Subsection (1) applies—

(a) whether the person's conduct takes place in the Sovereign Base Areas or elsewhere;

(b) whether the asset is in the Sovereign Base Areas or elsewhere.

(3) In this section—

"asset" means an asset of any kind whether tangible or intangible and includes in particular real and personal property, electronic systems and information;

"damage" includes any of the following (whether permanent or temporary)—

(a) destruction;

(b) alteration;

(c) contamination;

(d) interference;

(e) loss of or reduction in access or availability;

(f) loss of or reduction in function, utility or reliability.

(4) A person who commits an offence under this section is liable on conviction to imprisonment for life or an unlimited fine (or both).

13 Foreign interference: general

(1) A person commits an offence if—

(a) the person engages in prohibited conduct,

(b) the foreign power condition is met in relation to the prohibited conduct (see section 31), and

(c) the person intends the prohibited conduct, or a course of conduct of which it forms part, to have an interference effect.

(2) A person commits an offence if—

(a) the person engages in prohibited conduct,

(b) the foreign power condition is met in relation to the prohibited conduct (see section 31), and

(c) the person is reckless as to whether the prohibited conduct, or a course of conduct of which it forms part, will have an interference effect.

(3) A person ("P") commits an offence if—

(a) P engages in a course of conduct with one or more other persons,

(b) the foreign power condition is met in relation to conduct of P which forms part of the course of conduct (see section 31),

(c) P intends the course of conduct to have an interference effect,

(d) as part of the course of conduct, a person other than P engages in prohibited conduct, and

(e) P intends or believes that, as part of the course of conduct, a person other than P will engage in prohibited conduct.

(4) For the purposes of subsections (1)(c) and (2)(c) a course of conduct includes a course of conduct engaged in by the person alone, or by the person and one or more other persons.

(5) Subsections (1) and (2) apply whether the person's conduct takes place in the Sovereign Base Areas or elsewhere.

(6) Subsection (3) applies whether P's conduct or the prohibited conduct takes place in the Sovereign Base Areas or elsewhere.

(7) A person who commits an offence under this section is liable on conviction to imprisonment for a term not exceeding 14 years or an unlimited fine (or both).

(8) In this section—

"interference effect" has the meaning given by section 14;

"prohibited conduct" has the meaning given by section 15.

14 Foreign interference: meaning of "interference effect"

(1) For the purposes of section 13 an "interference effect" means any of the following effects—

(a) interfering with the exercise by a particular person of a UK Convention right in the United Kingdom or an SBA Convention right in the Sovereign Base Areas,

(b) affecting the exercise by any person of their public functions,

(c) interfering with whether, or how, any person makes use of services provided in the exercise of public functions,

(d) interfering with whether, or how, any person (other than in the exercise of a public function) participates in relevant political processes or makes political decisions,

(e) interfering with whether, or how, any person (other than in the exercise of a public function) participates in legal processes under the law of the United Kingdom or the Sovereign Base Areas, or

(f) prejudicing the safety or interests of the United Kingdom or the Sovereign Base Areas.

(2) An effect may be an interference effect whether it relates to a specific instance of a matter mentioned in subsection (1), or to the matter in general.

(3) In subsection (1)(d) "relevant political processes" means—

(a) an election or referendum in the United Kingdom,

(b) the proceedings of a local authority,

(c) the proceedings of a UK registered political party, or

(d) the activities of an informal group consisting of or including members of—

(i) one or both of the Houses of Parliament,

(ii) the Northern Ireland Assembly,

(iii) the Scottish Parliament, or

(iv) Senedd Cymru,

(acting in that capacity).

(4) In subsection (1)(d) "political decisions" means decisions of—

(a) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975(**a**)) or a United Kingdom government department,

(b) a Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland, a person appointed as a junior Minister under section 19 of the Northern Ireland Act 1998(**b**), a Northern Ireland department or the Executive Committee of the Northern Ireland Assembly,

(c) the Scottish Ministers or the First Minister for Scotland,

(d) the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or

(e) a local authority.

(5) In this section—

the "law of the United Kingdom" includes the law of any part of the United Kingdom;

"local authority" means—

(a) in England—

(i) a county council;

(ii) a district council;

(iii) a London borough council;

(**a**) 1975 c. 26.
(**b**) 1998 c. 47.

(iv) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009(**a**);

(v) a parish council;

(vi) the Council of the Isles of Scilly;

(vii) the Common Council of the City of London;

(viii) the Sub-Treasurer of the Inner Temple;

(ix) the Under Treasurer of the Middle Temple;

(b) in Wales, a county council, county borough council or community council;

(c) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**b**);

(d) in Northern Ireland, a district council;

"public functions" means functions of a public nature—

(a) exercisable in the United Kingdom or the Sovereign Base Areas, or

(b) exercisable in a country or territory outside the United Kingdom or the Sovereign Base Areas by a person acting for or on behalf of, or holding office under, the Crown;

"SBA Convention rights" are—

(a) the rights defined in section 2 of the Human Rights Ordinance 2004(**c**) and set out in Schedule 1 of the same Ordinance,

(b) the property right set out in sections 2 and 3 of the Protection of Property Ordinance 2004(**d**), and

(c) the right to education set out in sections 2 and 3 of the Right to Education Ordinance 2005(**e**);

"UK Convention rights" means the Convention rights as defined in section 1 of the Human Rights Act 1998(**f**);

"UK registered political party" means a political party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000(**g**).

15 Foreign interference: meaning of "prohibited conduct"

(1) Conduct is prohibited conduct for the purposes of section 13 if—

(a) it constitutes an offence, or

(b) if it takes place in a country or territory outside the Sovereign Base Areas, it would constitute an offence if it took place in the Sovereign Base Areas.

(2) Conduct is prohibited conduct for the purposes of section 13 if it involves coercion of any kind, including coercion by—

(a) using or threatening to use violence against a person;

(b) damaging or destroying, or threatening to damage or destroy, a person's property;

(**a**) 2009 c. 20.
(**b**) 1994 c. 39.
(**c**) Ordinance 09/2004.
(**d**) Ordinance 35/2004.
(**e**) Ordinance 08/2005.
(**f**) 1998 c. 42.
(**g**) 2000 c. 41.

(c) damaging or threatening to damage a person's reputation;

(d) causing or threatening to cause financial loss to a person;

(e) causing spiritual injury to, or placing undue spiritual pressure on, a person;

(whether or not that person is the person to whom the interference effect relates).

(3) Conduct is prohibited conduct for the purposes of section 13 if it involves making a misrepresentation.

(4) A "misrepresentation" is a representation—

(a) that a reasonable person would consider to be false or misleading in a way material to the interference effect, and

(b) that the person making the representation knows or intends to be false or misleading in a way material to the interference effect.

(5) A misrepresentation may be made by making a statement or by any other kind of conduct, and may be express or implied.

(6) A misrepresentation may in particular include—

(a) a misrepresentation as to a person's identity or purpose;

(b) presenting information in a way which amounts to a misrepresentation, even if some or all of the information is true.

(7) In this section "interference effect" has the meaning given by section 14.

Obtaining benefits from a foreign intelligence service

17 Obtaining etc material benefits from a foreign intelligence service

(1) A person commits an offence if—

(a) the person—

(i) obtains, accepts or retains a material benefit which is not an excluded benefit, or

(ii) obtains or accepts the provision of such a benefit to another person,

(b) the benefit is or was provided by or on behalf of a foreign intelligence service, and

(c) the person knows, or having regard to other matters known to them ought reasonably to know, that the benefit is or was provided by or on behalf of a foreign intelligence service.

(2) A person commits an offence if—

(a) the person agrees to accept—

(i) a material benefit which is not an excluded benefit, or

(ii) the provision of such a benefit to another person,

(b) the benefit is to be provided by or on behalf of a foreign intelligence service, and

(c) the person knows, or having regard to other matters known to them ought reasonably to know, that the benefit is to be provided by or on behalf of a foreign intelligence service.

(3) Material benefits may include financial benefits, anything which has the potential to result in a financial benefit, and information.

(4) A material benefit is an excluded benefit if—

(a) it is provided as reasonable consideration for the provision of goods or services, and

(b) the provision of those goods or services does not constitute an offence.

(5) A benefit may be provided by or on behalf of a foreign intelligence service directly or indirectly (for example, it may be provided indirectly through one or more companies).

(6) Subsections (1) and (2) apply to conduct outside the Sovereign Base Areas, but apply to conduct taking place wholly outside the Sovereign Base Areas only if—

(a) the material benefit is or was, or is to be, provided in or from the United Kingdom or the Sovereign Base Areas, or

(b) in any case, the person engaging in the conduct—

(i) is a UK person, or

(ii) acts for or on behalf of, or holds office under, the Crown, or is in Crown employment (whether or not they engage in the conduct in that capacity).

(7) In proceedings for an offence under subsection (1) by virtue of retaining a benefit, it is a defence to show that the person had a reasonable excuse for retaining the benefit.

(8) In proceedings for an offence under subsection (1) or (2) it is a defence to show that the person engaged in the conduct in question—

(a) in compliance with a legal obligation under the law of the United Kingdom or the Sovereign Base Areas which is not a legal obligation under private law,

(b) in the case of a person having functions of a public nature under the law of the United Kingdom or the Sovereign Base Areas, for the purposes of those functions, or

(c) in accordance with an agreement or arrangement to which—

(i) the United Kingdom was, or the Sovereign Base Areas were, a party, or

(ii) any person acting for or on behalf of, or holding office under, the Crown was (in that capacity) a party.

(9) A person is taken to have shown a matter mentioned in subsection (7) or (8) if—

(a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and

(b) the contrary is not proved beyond reasonable doubt.

(10) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term not exceeding 14 years or an unlimited fine (or both).

(11) A person who commits an offence under subsection (2) is liable on conviction to imprisonment for a term not exceeding 10 years or an unlimited fine (or both).

(12) The following terms have the same meaning as in section 3—

"Crown employment";

"financial benefit";

"foreign intelligence service";

the "law of the United Kingdom";

"UK person".

Preparatory conduct

18 Preparatory conduct

(1) A person commits an offence if, with the intention of—

(a) committing acts to which this section applies, or

(b) acts to which this section applies being committed by another person,

the person engages in any conduct in preparation for the commission of such acts.

(2) It is immaterial whether the person's intention relates to, or the person's conduct is in preparation for, specific acts to which this section applies, or acts to which this section applies in general.

(3) This section applies to—

(a) acts which constitute an offence under—

(i) section 1 (obtaining or disclosing protected information);

(ii) section 2 (obtaining or disclosing trade secrets);

(iii) section 4 (entering etc. a prohibited place for a purpose prejudicial to the United Kingdom or the Sovereign Base Areas);

(iv) section 12 (sabotage);

(b) acts within subsection (4) in relation to which the foreign power condition is met.

(4) Acts are within this subsection if they—

(a) involve serious violence against a person in the United Kingdom or the Sovereign Base Areas,

(b) endanger the life of a person in the United Kingdom or the Sovereign Base Areas, or

(c) create a serious risk to the health or safety of the public, or a section of the public, in the United Kingdom or the Sovereign Base Areas.

(5) Subsection (1) applies whether the person's conduct takes place in the Sovereign Base Areas or elsewhere.

(6) A person who commits an offence under this section is liable on conviction to imprisonment for life or an unlimited fine (or both).

Powers of investigation etc

23 Powers of search etc

Schedule 2 confers powers of entry, search and seizure in relation to—

(a) certain offences under this Part of this Act, and

(b) acts or threats within section 33(3)(b) or (c).

24 Disclosure orders

Schedule 3 makes provision for disclosure orders.

27 Arrest without warrant

(1) A police officer may arrest without warrant anyone who the officer reasonably suspects is, or has been, involved in foreign power threat activity.

(2) Schedule 6 makes provision about detention under this section.

(3) In this section and Schedule 6 references to involvement in foreign power threat activity do not include involvement in such activity occurring before this section comes into force.

28 Use of reasonable force

(1) A power conferred on a police officer by virtue of this Part—

(a) is additional to powers which the police officer has at common law or by virtue of any other enactment, and

(b) is not to be taken as affecting those powers.

(2) A police officer may if necessary use reasonable force for the purpose of exercising a power conferred on the police officer by virtue of this Part.

Foreign power condition and foreign power threat activity

31 The foreign power condition

(1) For the purposes of this Part the foreign power condition is met in relation to a person's conduct if—

(a) the conduct in question, or a course of conduct of which it forms part, is carried out for or on behalf of a foreign power, and

(b) the person knows, or having regard to other matters known to them ought reasonably to know, that to be the case.

(2) The conduct in question, or a course of conduct of which it forms part, is in particular to be treated as carried out for or on behalf of a foreign power if—

(a) it is instigated by a foreign power,

(b) it is under the direction or control of a foreign power,

(c) it is carried out with financial or other assistance provided by a foreign power for that purpose, or

(d) it is carried out in collaboration with, or with the agreement of, a foreign power.

(3) Subsections (1)(a) and (2) may be satisfied by a direct or indirect relationship between the conduct, or the course of conduct, and the foreign power (for example, there may be an indirect relationship through one or more companies).

(4) A person's conduct may form part of a course of conduct engaged in by the person alone, or by the person and one or more other persons.

(5) The foreign power condition is also met in relation to a person's conduct if the person intends the conduct in question to benefit a foreign power.

(6) For the purposes of subsection (5) it is not necessary to identify a particular foreign power.

(7) The foreign power condition may be met in relation to the conduct of a person who holds office in or under, or is an employee or other member of staff of, a foreign power, as it may be met in relation to the conduct of any other person.

32 Meaning of "foreign power"

(1) Except where subsection (5) applies, in this Part "foreign power" means—

(a) the sovereign or other head of a foreign State in their public capacity,

(b) a foreign government, or part of a foreign government,

(c) an agency or authority of a foreign government, or of part of a foreign government,

(d) an authority responsible for administering the affairs of an area within a foreign country or territory, or persons exercising the functions of such an authority, or

(e) a political party which is a governing political party of a foreign government.

(2) A political party is a governing political party of a foreign government if persons holding political or official posts in the foreign government or part of the foreign government—

(a) hold those posts as a result of, or in the course of, their membership of the party, or

(b) in exercising the functions of those posts, are subject to the direction or control of, or significantly influenced by, the party.

(3) Subsection (1)(e) does not include a political party which is—

(a) a governing political party of the government of the Republic of Ireland, and

(b) a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000.

(4) In this section—

"foreign country or territory" means a country or territory outside the United Kingdom, the Channel Islands, the Isle of Man or the British Overseas Territories;

"foreign government" means the government of a foreign country or territory;

a "government" includes persons exercising the functions of a government;

"territory" includes the constituent territories of a federal State.

(5) This subsection applies to—

(a) the government of the Republic of Cyprus, or part thereof,

(b) an agency or authority of the Republic of Cyprus, or part thereof, or

(c) an authority of the Republic of Cyprus that is responsible for administering the affairs of an area partly within the Republic of Cyprus and partly within the Sovereign Base Areas, and persons exercising the functions of such an authority,

in carrying out delegated functions, conferred functions or other public functions in, or in respect of, the Sovereign Base Areas.

(6) In subsection (5)—

"conferred function" has the meaning given by section 3(1) of the Conferral of Protocol Functions on the Republic Ordinance 2020(**a**);

"delegated function" has the meaning given by section 3(1) of the Delegation of Functions to the Republic Ordinance 2007(**b**).

33 Foreign power threat activity and involvement in that activity

(1) In this Part references to foreign power threat activity and to involvement in foreign power threat activity are to one or more of the following—

(a) the commission, preparation or instigation of acts or threats within subsection (3);

(b) conduct which facilitates (or is intended to facilitate) conduct falling within paragraph (a);

(c) conduct which gives support or assistance to a person ("P"), where the person who engages in the conduct—

(i) knows or believes P to be involved in, and

(ii) engages in the conduct for the purpose of giving support or assistance to,

conduct falling within paragraph (a).

(2) It is immaterial whether the activity within subsection (1) relates to specific acts or threats within subsection (3), or to acts or threats within that subsection in general.

(3) References to acts or threats within this subsection are to—

(a) acts which constitute an offence under—

(i) section 1 (obtaining or disclosing protected information);

(ii) section 2 (obtaining or disclosing trade secrets);

(iii) section 3 (assisting a foreign intelligence service);

(iv) section 4 (entering etc. a prohibited place for a purpose prejudicial to the United Kingdom or the Sovereign Base Areas);

(v) section 12 (sabotage);

(vi) section 13 (foreign interference: general);

(vii) section 17(1) (obtaining material benefits from a foreign intelligence service);

(b) acts within subsection (4) in relation to which the foreign power condition is met;

(c) threats to carry out acts within subsection (4), where the foreign power condition is met in relation to the threats.

(4) Acts are within this subsection if they—

(a) involve serious violence against another person,

(b) endanger the life of another person, or

(c) create a serious risk to the health or safety of the public or a section of the public.

(**a**) Ordinance 46/2020.
(**b**) Ordinance 17/2007.

34 Interpretation

In this Part—

"conduct" includes omissions and statements;

"foreign power" has the meaning given by section 32;

"the foreign power condition" has the meaning given by section 31;

"foreign power threat activity" and "involvement", in relation to such activity, have the meaning given by section 33;

"information" includes information about tactics, techniques and procedures;

"police officer" means an officer of the Police Service (and includes the Chief Constable and Deputy Chief Constable of the Police Service and special constables);

"Police Service" means the Sovereign Base Areas Police Service;

"special constable" means a person who is duly sworn to perform the duties of a special constable under the law of the Sovereign Base Areas.

35 Offences by bodies corporate etc

(1) If an offence under this Part is committed by a body—

(a) with the consent or connivance of an officer of the body, or

(b) due to any neglect on the part of such an officer,

the officer, as well as the body, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In this section—

"body" means a body corporate, a partnership or an unincorporated body other than a partnership;

"officer of a body"—

(a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;

(b) in relation to a partnership, means a partner or person purporting to act as a partner;

(c) in relation to an unincorporated body other than a partnership, means a person who is concerned in the management or control of the body or purports to act in the capacity of a person so concerned.

(3) In subsection (2) "director" includes—

(a) a person occupying in relation to a body corporate the position of a director (by whatever name called),

(b) a person in accordance with whose directions or instructions (not being advice given in a professional capacity) the directors of that body are accustomed to act, and

(c) a person who has an interest or right in, or in relation to, the body corporate that (whether alone or together with other interests or rights held

by the person) enables the person materially to influence the policy of the body corporate.

(4) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.

(5) The Administrator may by regulations provide for the modification of any provision of this section in its application to a body corporate or unincorporated association or body formed or recognised under the law of a country or territory outside the Sovereign Base Areas.

36 Offences committed outside the Sovereign Base Areas

(1) Where an offence under this Part may be committed by conduct taking place outside the Sovereign Base Areas, it may be so committed—

(a) in the case of conduct by an individual, whatever the nationality of the individual, and

(b) in the case of conduct by a person other than an individual, regardless of whether the body corporate or unincorporated association or body is formed or recognised under the law of a country or territory outside the Sovereign Base Areas.

(2) Subsection (1) is subject to sections 3(5) and 17(6) (commission of offences under sections 3 and 17 by conduct outside the Sovereign Base Areas).

(3) Where an offence under this Part is committed outside the Sovereign Base Areas, the offence may for all incidental purposes be treated as having been committed in the Sovereign Base Areas.

37 Consents to prosecutions

(1) This section applies to offences under this Part, except offences under—

(a) section 5 (unauthorised entry to a prohibited place);

(b) section 6 (prohibited place: failure to comply with order of police officer);

(c) section 11 (cordoned area: failure to comply with order of police officer);

(d) Schedule 2 (powers of entry, search and seizure);

(e) Schedule 3 (disclosure orders).

(2) Proceedings for an offence to which this section applies may be instituted only with the consent of the Attorney-General and Legal Adviser.

PART 5

TERRORISM

Damages in national security proceedings

84 National security proceedings

(1) Sections 85 and 86 apply to proceedings ("national security proceedings") before a court which—

(a) are commenced on or after the date this section comes into force,

(b) are brought against the Crown on any grounds (other than where subsection (2) applies), and

(c) relate to national security.

(2) This subsection applies where the proceedings are brought under section 9(1)(a) of the Human Rights Ordinance 2004, including where proceedings are brought under that provision in relation to—

(a) the property right (by virtue of section 4 of the Protection of Property Ordinance 2004), or

(b) the right to education (by virtue of section 4 of the Right to Education Ordinance 2005).

(3) For the purposes of this section—

(a) proceedings relate to national security where a party to those proceedings has, at any stage, presented evidence or made submissions to the court relating to national security;

(b) the circumstances in which evidence or submissions are to be taken to relate to national security include, in particular, where the evidence or submissions relate to—

(i) the use of investigatory powers or surveillance powers under the Regulation of Investigatory Powers Ordinance 2012(**a**), or the use of similar powers outside the Sovereign Base Areas in the interests of national security;

(ii) the activities of the intelligence services within or outside the Sovereign Base Areas, or the activities of similar services outside the Sovereign Base Areas;

(iii) investigations or other activities in connection with preventing the commission of terrorism offences or other involvement in terrorism-related activity within or outside the Sovereign Base Areas.

85 Duty to consider reduction in damages payable by the Crown

(1) This section applies where—

(a) liability of the Crown to the claimant has been established by the court in national security proceedings,

(b) the court is permitted to award damages, payable by the Crown, to the claimant in those proceedings in respect of that liability,

(c) the Crown has made an application to the court for consideration of the factors mentioned in subsection (3) (the "national security factors"), and

(d) the court has not refused the application.

(2) Where this section applies, the court must, in deciding what remedy (if any) to award to the claimant in respect of the liability, consider the national security factors.

(3) The national security factors are—

(a) whether the claimant has committed wrongdoing that—

(i) involves the commission of a terrorism offence or other involvement in terrorism-related activity, and

(**a**) Ordinance 26/2012.

(ii) has a connection with the conduct of the Crown complained of in the proceedings, and

(b) if the claimant has committed such wrongdoing—

(i) the extent of that wrongdoing and of its connection with the conduct of the Crown, and

(ii) the matters mentioned in subsection (4).

(4) The matters are whether and to what extent—

(a) there was a risk of harm the Crown sought to prevent or limit in carrying out the conduct complained of in the proceedings;

(b) there was a limitation on the ability of the Crown to prevent the conduct occurring, including on the basis of—

(i) the conduct having occurred outside the United Kingdom and Sovereign Base Areas, or

(ii) the conduct having been carried out in conjunction with a third party.

(5) Where the court would (but for this subsection) award damages to the claimant of a particular amount, the court must decide whether, in light of its consideration of the national security factors, it is appropriate for it to reduce the amount of damages (including to nil).

(6) But the court may not decide to reduce damages it would otherwise award to the claimant under section 10 of the Human Rights Ordinance 2004 (including as applied to the property right by virtue of section 4 of the Protection of Property Ordinance 2004 and to the right to education by virtue of section 4 of the Right to Education Ordinance 2005).

(7) Nothing in this section—

(a) prevents a court from considering the national security factors of its own motion where this section does not apply;

(b) affects any other power the court may have to reduce damages or to refuse to award damages, including by reason of—

(i) the claimant's wrongdoing,

(ii) the claimant's failure to mitigate any harm they have suffered, or

(iii) the claimant's contribution to that harm;

(c) affects any existing rule of law otherwise limiting the scope of liability of the Crown.

86 Section 85: supplementary

(1) An application for consideration of the national security factors may be made at any time before the final disposal of the national security proceedings, including at a time before any liability of the Crown has been established.

(2) The application must—

(a) set out how the Crown considers the national security factors to apply, and the Crown's reasons;

(b) set out the extent to which the Crown considers that damages should be reduced in light of the national security factors, and the Crown's reasons;

(c) otherwise be made in accordance with rules of court.

(3) The court may refuse the application if, in the court's view, consideration of the national security factors would—

(a) cause unreasonable delay to the national security proceedings, or

(b) unreasonably prejudice another party to the proceedings.

87 Sections 84 to 86: interpretation

(1) In sections 84 to 86 and this section—

"claimant" means a person claiming a remedy of any kind against the Crown in national security proceedings;

"court" includes a tribunal;

"intelligence service" means—

(a) the Security Service;

(b) the Secret Intelligence Service;

(c) the Government Communications Headquarters;

"involvement in terrorism-related activity" is any one or more of the following—

(a) the commission, preparation or instigation of acts of terrorism;

(b) conduct which facilitates the commission, preparation or instigation of such acts, or which is intended to do so;

(c) conduct which gives encouragement to the commission, preparation or instigation of such acts, or which is intended to do so;

(d) conduct which gives support or assistance to individuals who are known or believed by the individual concerned to be involved in conduct falling within paragraph (a);

and it is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general;

"national security" means the national security of the United Kingdom or the Sovereign Base Areas (or both);

"national security factors" means the factors set out for consideration in section 85(3);

"national security proceedings" has the meaning given by section 84;

"rules of court" includes tribunal procedure rules;

"terrorism" has the meaning given by section 3 of the Counter-Terrorism Ordinance 2016(**a**);

"terrorism offence" means conduct specified in accordance with subsection (2).

(2) The Administrator must specify by regulations the conduct which constitutes a terrorism offence for the purposes of sections 84 to 86 and this section.

(3) Regulations under subsection (2) may in particular include—

(a) an offence under the Counter-Terrorism Ordinance 2016 (whenever committed);

(b) any other offence under Sovereign Base Area law in which a court determines there to be a terrorist connection (whenever committed);

(**a**) Ordinance 12/2016.

(c) a terrorism offence under UK law within the meaning of section 87 of the UK Act (whenever committed).

Freezing and forfeiture of damages

88 Damages at risk of being used for the purposes of terrorism

Schedule 16 makes provision in relation to damages at risk of being used for the purposes of terrorism.

PART 6

MISCELLANEOUS AND GENERAL PROVISIONS

General provisions

94 Minor and consequential amendments

Schedule 18 makes minor and consequential amendments.

96 Rules and regulations

(1) A power to make rules or regulations under any provision of this Act includes the power to make—

(a) consequential, supplementary, incidental, transitional or saving provision;

(b) different provision for different purposes or different areas.

(2) Rules and regulations under this Act are to be made by public instrument (within the meaning of section 55 of the Interpretation Ordinance 2012(**a**)).

97 Crown application

(1) This Act binds the Crown, subject as follows.

(2) No contravention by the Crown of a provision of this Act makes the Crown criminally liable.

(3) Subsection (2) does not affect the criminal liability of persons in the service of the Crown.

(4) An amendment or repeal made by this Act binds the Crown to the same extent as the provision amended or repealed.

SCHEDULE 2

Section 23

POWERS OF ENTRY, SEARCH AND SEIZURE

Introductory

1 In this Schedule "relevant act" means—

(**a**) Ordinance 08/2012.

(a) an offence under this Part of this Act, other than an offence under—

(i) section 5 (unauthorised entry to a prohibited place);

(ii) section 6 (prohibited place: failure to comply with order of police officer);

(iii) section 11 (cordoned area: failure to comply with order of police officer);

(iv) this Schedule;

(v) Schedule 3 (disclosure orders).

(b) an act or threat within section 33(3)(b) or (c).

Material other than confidential material: search and seizure

2 (1) A police officer may make an application for the issue of a warrant under this paragraph to a member of the Resident Judge's Court.

(2) The judge may grant the application if satisfied that—

(a) conditions 1 and 2 are met, and

(b) in the case of an application for an all premises warrant, condition 3 is met.

(3) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.

(4) Condition 2 is that there are reasonable grounds for suspecting that there is on the relevant premises material which—

(a) is likely to be evidence that a relevant act has been, or is about to be, committed, and

(b) does not consist of or include confidential material.

(5) Condition 3 is that it is not reasonably practicable to specify in the application all the premises which the person specified in the application occupies or controls and which might need to be searched.

(6) A warrant under this paragraph is a warrant authorising any police officer—

(a) to enter the relevant premises,

(b) to search the relevant premises and any person found there, and

(c) to seize any material found on a search under paragraph (b) which is likely to be evidence that a relevant act has been, or is about to be, committed.

(7) A warrant under this paragraph does not authorise—

(a) the seizure of confidential material, or

(b) a police officer to require a person to remove any clothing in public except for headgear, footwear, an outer coat or jacket and gloves.

(8) An item seized under a warrant under this paragraph must be brought before a member of the Resident Judge's Court to be disposed of.

(9) In this paragraph the "relevant premises" are—

(a) one or more sets of premises specified in the application (in which case the application is for a "specific premises warrant"), or

(b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an "all premises warrant").

Confidential material: production orders

3 (1) A police officer may apply to a Senior Judge for an order under this paragraph.

(2) The judge may grant the application if satisfied that conditions 1 to 4 are met.

(3) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.

(4) Condition 2 is that there are reasonable grounds for suspecting that a person specified in the application has in their possession, custody or control material which—

(a) is likely to be evidence that a relevant act has been, or is about to be, committed,

(b) consists of or includes confidential material, and

(c) does not include items subject to legal privilege.

(5) Condition 3 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.

(6) Condition 4 is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or access to it should be given having regard to—

(a) the benefit likely to accrue to the investigation if the material is obtained, and

(b) the circumstances under which the person concerned has any of the material in their possession, custody or control.

(7) An order under this paragraph is an order that the person specified in the application must do any of the following—

(a) produce to a police officer within a specified period for seizure any material which the person has in their possession, custody or control and to which the application relates;

(b) give a police officer access to any material of the kind mentioned in paragraph (a) within a specified period;

(c) state to the best of the person's knowledge and belief the location of the material to which the application relates if it is not in, and will not come into, the person's possession, custody or control within the period specified under paragraph (a) or (b).

(8) The specified period is to be the period of 7 days beginning with the date of the order, unless it appears to the judge that a different period would be appropriate in the particular circumstances of the application.

(9) An item seized by virtue of an order under this paragraph must be brought before a member of the Resident Judge's Court to be disposed of.

4 (1) A police officer may apply to a Senior Judge for an order under this paragraph.

(2) The judge may grant the application if satisfied that conditions 1 to 5 are met.

(3) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.

(4) Condition 2 is that there are reasonable grounds for suspecting that, within the period of 28 days beginning with the date of the order, there is likely to come into existence material which—

(a) is evidence that a relevant act has been, or is about to be, committed,

(b) consists of or includes confidential material, and

(c) does not include items subject to legal privilege.

(5) Condition 3 is that there are reasonable grounds for suspecting that a person specified in the application is likely within that period to have in their possession, custody or control any of the material to which the application relates.

(6) Condition 4 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.

(7) Condition 5 is that there are reasonable grounds for believing that it is in the public interest that the material should be produced or access to it should be given having regard to—

(a) the benefit likely to accrue to the investigation if the material is obtained, and

(b) the circumstances under which the person concerned is likely to have any of the material in their possession, custody or control.

(8) An order under this paragraph is an order that the person specified in the application must do any of the following—

(a) notify a named police officer as soon as reasonably practicable after any material to which the application relates comes into the person's possession, custody or control;

(b) produce to a police officer within a specified period for seizure any material to which the application relates which comes into the person's possession, custody or control;

(c) give a police officer access to any material of the kind mentioned in paragraph (b) within a specified period;

(d) state to the best of the person's knowledge and belief the location of the material to which the application relates if it is not in, and will not come into, the person's possession, custody or control within the period of 28 days beginning with the date of the order.

(9) The specified period is to be the period of 7 days beginning with the date of the notification required by sub-paragraph (8)(a), unless it appears to the judge that a different period would be appropriate in the particular circumstances of the application.

(10) An item seized by virtue of an order under this paragraph must be brought before a member of the Resident Judge's Court to be disposed of.

Production orders: supplementary provision

5 An application for an order under paragraph 3 or 4 may be made without notice to a Senior Judge in chambers.

6 (1) An order under paragraph 3 or 4—

(a) does not confer any right to production of, or access to, items subject to legal privilege, and

(b) has effect despite any restriction on the disclosure of information imposed by an enactment or otherwise.

(2) Where the material consists of information stored in electronic form—

(a) an order under paragraph 3(7)(a) or 4(8)(b) has effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form, and

(b) an order under paragraph 3(7)(b) or 4(8)(c) has effect as an order to give a police officer access to the material in a form in which it is visible and legible.

7 (1) An order under paragraph 3 or 4 may be made in relation to material in the possession, custody or control of the Sovereign Base Areas Administration.

(2) Where an order is made by virtue of sub-paragraph (1)—

(a) it is to be served as if the proceedings were civil proceedings against the Sovereign Base Areas Administration, and

(b) it may require any officer of the Sovereign Base Areas Administration, whether named in the order or not, who may for the time being have in their possession, custody or control the material concerned, to comply with the order.

8 An order under paragraph 3 or 4 has effect as if it were an order of the Senior Judges' Court.

Confidential material: search and seizure

9 (1) A police officer may apply to a Senior Judge for the issue of a warrant under this paragraph.

(2) The judge may grant the application if satisfied that an order made under paragraph 3 or 4 in relation to material on the relevant premises has not been complied with.

(3) The judge may also grant the application if satisfied that—

(a) conditions 1 to 5 are met, and

(b) in the case of an application for an all premises warrant, condition 6 is met.

(4) Condition 1 is that there are reasonable grounds for suspecting that a relevant act has been, or is about to be, committed.

(5) Condition 2 is that there are reasonable grounds for suspecting that there is on the relevant premises material which—

(a) is likely to be evidence that a relevant act has been, or is about to be, committed,

(b) consists of or includes confidential material, and

(c) does not include items subject to legal privilege.

(6) Condition 3 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed.

(7) Condition 4 is that there are reasonable grounds for believing that it is in the public interest that the material should be obtained having regard to—

(a) the benefit likely to accrue to the investigation if the material is obtained, and

(b) the circumstances under which the person concerned has any of the material in their possession, custody or control.

(8) Condition 5 is that any of the following apply—

(a) it is not practicable to communicate with any person entitled to produce the material;

(b) it is not practicable to communicate with any person entitled to grant access to the material;

(c) the investigation may be seriously prejudiced unless a police officer can secure immediate access to the material.

(9) Condition 6 is that it is not reasonably practicable to specify in the application all the premises which the person specified in the application occupies or controls and which might need to be searched.

(10) A warrant under this paragraph is a warrant authorising any police officer—

(a) to enter the relevant premises,

(b) to search the relevant premises and any person found there, and

(c) to seize any material found on a search under paragraph (b) which is likely to be evidence that a relevant act has been, or is about to be, committed.

(11) A warrant under this paragraph does not authorise—

(a) the seizure of items subject to legal privilege, or

(b) a police officer to require a person to remove any clothing in public except for headgear, footwear, an outer coat or jacket and gloves.

(12) An item seized under a warrant under this paragraph must be brought before a member of the Resident Judge's Court to be disposed of.

(13) In this paragraph the "relevant premises" are—

(a) one or more sets of premises specified in the application (in which case the application is for a "specific premises warrant"), or

(b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an "all premises warrant").

Explanations

10 (1) A police officer may apply to a Senior Judge for an order under this paragraph requiring any person specified in the order to provide an explanation of material—

(a) seized under a warrant under paragraph 2 or 9, or

(b) produced or made available to a police officer under paragraph 3 or 4.

(2) An application for an order under this paragraph may be made without notice to a judge in chambers.

(3) An order under this paragraph may not require any person to disclose any information which they would be entitled to refuse to disclose on grounds of legal professional privilege in court proceedings.

(4) But a lawyer may be required to provide the name and address of their client.

(5) A statement by a person in response to a requirement imposed by an order under this paragraph—

(a) may be made orally or in writing, and

(b) may be used in evidence against the person only on a prosecution for an offence under paragraph 11.

(6) An order under this paragraph has effect as if it were an order of the Senior Judges' Court.

11 (1) A person commits an offence if, in purported compliance with an order under paragraph 10, they—

(a) make a statement which they know to be false or misleading in a material particular, or

(b) recklessly make a statement which is false or misleading in a material particular.

(2) A person who commits an offence under sub-paragraph (1) is liable on conviction to imprisonment for a term not exceeding 2 years or an unlimited fine (or both).

Urgent cases

12 (1) A police officer of at least the rank of Superintendent may by a written order signed by them give to any police officer the authority which may be given by—

(a) a warrant under paragraph 2, or

(b) a warrant under paragraph 9.

(2) An officer may not make an order under this paragraph unless the officer —

(a) is satisfied as mentioned in paragraph 2(2) or paragraph 9(2) or (3) (as the case may be), and

(b) has reasonable grounds for believing that the case is one of great emergency and that immediate action is necessary.

(3) Where an order is made under this paragraph particulars of the case must be notified as soon as is reasonably practicable to the Administrator.

(4) A person who wilfully obstructs a search under this paragraph commits an offence.

(5) A person who commits an offence under sub-paragraph (4) is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding €2,500 (or both).

13 (1) If a police officer of at least the rank of Superintendent has reasonable grounds for believing that the case is one of great emergency the officer may by a written notice signed by them require any person specified in the notice to provide an explanation of any material seized in pursuance of an order under paragraph 12.

(2) Paragraph 10(3) to (5) and paragraph 11 apply to a notice under this paragraph as they apply to an order under paragraph 10.

(3) A person who fails to comply with a notice under this paragraph commits an offence.

(4) It is a defence for a person charged with an offence under sub-paragraph (3) to show that they had a reasonable excuse for their failure.

(5) A person is taken to have shown that they had a reasonable excuse for their failure if—

(a) sufficient evidence of that fact is adduced to raise an issue with respect to it, and

(b) the contrary is not proved beyond reasonable doubt.

(6) A person guilty of an offence under sub-paragraph (3) is liable on conviction to imprisonment for a term not exceeding 12 months or an unlimited fine (or both).

Procedure rules

14 (1) The Administrator may, after consulting with the Presiding Judge, make rules of court to make provision about proceedings relating to a warrant or order under this Schedule (other than an order under paragraph 12).

(2) The provision which may be made by virtue of this paragraph includes in particular provision about the variation or discharge of an order.

Interpretation

15 (1) This paragraph applies for the interpretation of this Schedule.

(2) "Enactment" means an enactment of the Sovereign Base Areas and includes any of the following insofar as it extends to the Sovereign Base Areas—

(a) an Act of the Parliament of the United Kingdom;

(b) an instrument made under such an Act;

(c) an Order of His Majesty in Council.

(3) "Confidential material" means—

(a) confidential journalistic material, and

(b) protected material.

(4) "Confidential journalistic material" means—

(a) in the case of material contained in a communication, journalistic material which the sender of the communication—

(i) holds in confidence, or

(ii) intends the recipient, or intended recipient, of the communication to hold in confidence;

(b) in any other case, journalistic material which a person holds in confidence.

(5) "Journalistic material" means material created or acquired for the purposes of journalism.

(6) For the purposes of this paragraph, where—

(a) a person ("R") receives material another person ("S"), and

(b) S intends R to use the material for the purposes of journalism,

R is to be taken to have acquired it for those purposes, and a communication sent by S to R containing such material is to be regarded as a communication containing journalistic material.

(7) For the purposes of determining whether a communication contains material acquired for the purposes of journalism, it does not matter whether the material has been acquired for those purposes by the sender or recipient of the communication or by some other person.

(8) For the purposes of this paragraph—

(a) material is not to be regarded as created or acquired for the purposes of journalism if it is created or acquired with the intention of furthering a criminal purpose, and

(b) material which a person intends to be used to further such a purpose is not to be regarded as intended to be used for the purposes of journalism.

(9) "Protected material" means—

(a) items subject to legal privilege,

(b) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence,

(c) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence, or

(d) other material in the possession of a person who—

(i) acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office, and

(ii) holds the material in confidence.

(10) "Items subject to legal privilege" has the meaning given in section 4 of the Criminal Procedure Ordinance 2016(**a**).

(11) In this paragraph "personal records" means documentary and other records concerning an individual (whether living or dead) who can be identified from them ("A") and relating to—

(a) A's physical or mental health,

(b) spiritual counselling or assistance given or to be given to A, or

(c) counselling or assistance given or to be given to A, for the purposes of their personal welfare, by any voluntary organisation or by any individual ("B") who—

(i) by reason of B's office or occupation has responsibilities for A's personal welfare, or

(ii) by reason of an order of a court has responsibilities for the supervision of A.

(12) A person holds material in confidence for the purposes of this paragraph if—

(a) the person holds it subject to an express or implied undertaking to hold it in confidence, or

(b) the person holds it subject to a restriction on disclosure or an obligation of secrecy contained in an enactment.

(**a**) Ordinance 09/2016.

SCHEDULE 3 Section 24

DISCLOSURE ORDERS

Introductory

1 (1) In this Schedule—

"relevant investigation" means an investigation into the identification of relevant property or its movement or use;

"relevant property" means—

(a) money or other property which is likely to be used for the purposes of foreign power threat activity, or

(b) proceeds of involvement in foreign power threat activity.

(2) The reference to proceeds of involvement in foreign power threat activity includes a reference to any money, other property or benefit in money's worth, which wholly or partly, and directly or indirectly, represents the proceeds of the involvement (including payments or rewards in connection with the involvement).

Disclosure orders

2 (1) A police officer may apply to a Senior Judge for a disclosure order.

(2) The application must state that a person or property specified in the application is subject to a relevant investigation and the order is sought for the purposes of the investigation.

(3) The judge may grant the application if satisfied that conditions 1 to 3 are met.

(4) Condition 1 is that there are reasonable grounds for suspecting that the property specified in the application is relevant property.

(5) Condition 2 is that there are reasonable grounds for believing that information which may be provided in compliance with a requirement imposed under the order is likely to be of substantial value, whether by itself or with other information, to the investigation.

(6) Condition 3 is that there are reasonable grounds for believing that it is in the public interest for the information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

(7) A disclosure order is an order authorising a police officer to give to any person the officer considers has relevant information notice in writing requiring the person to do any or all of the following with respect to any matter relevant to the investigation—

(a) answer questions, either at a time specified in the notice or at once, at a place so specified;

(b) provide information specified in the notice, by a time and in a manner so specified;

(c) produce documents, or documents of a description, specified in the notice, either at or by a time so specified or at once, and in a manner so specified.

(8) "Relevant information" means information (whether or not contained in a document) which the police officer considers to be relevant to the investigation.

(9) A person is not bound to comply with a requirement imposed by a notice given under a disclosure order unless evidence of authority to give the notice is produced.

(10) A police officer may not make an application under this paragraph unless the officer is of at least the rank of Superintendent or is authorised to do so by such an officer.

Supplementary provision

3 (1) A disclosure order does not confer the right to require a person—

(a) to answer any question,

(b) to provide any information, or

(c) to produce any document or other material,

which the person would be entitled to refuse to answer, provide or produce on grounds of legal professional privilege in court proceedings.

(2) But a lawyer may be required to provide the name and address of a client.

(3) A disclosure order does not confer the right to require a person to produce excluded material.

(4) A disclosure order has effect despite any restriction on the disclosure of information imposed by an enactment or otherwise.

(5) A police officer may take copies of any documents produced in compliance with a requirement to produce them imposed under a disclosure order.

(6) A document produced in compliance with a requirement imposed under a disclosure order may be seized by a police officer if the officer considers it necessary for the investigation in connection with which the order was made.

(7) Any document seized must be brought before a member of the Resident Judge's Court to be disposed of.

Applications

4 An application for a disclosure order may be made without notice to a Senior Judge in chambers.

Discharge or variation

5 (1) An application to discharge or vary a disclosure order may be made to the Senior Judges' Court by—

(a) the police officer who applied for the order or another police officer;

(b) any person affected by the order.

(2) A police officer may not make an application to discharge or vary a disclosure order unless the officer is of at least the rank of Superintendent or is authorised to do so by such an officer.

(3) The Senior Judges' Court may—

(a) discharge the order;

(b) vary the order.

Rules of court

6 The Administrator may, after consulting with the Presiding Judge, make rules of court to make provision about proceedings relating to an order under this Schedule (including applications for variation or discharge).

Offences

7 (1) A person commits an offence if without reasonable excuse the person fails to comply with a requirement imposed under a disclosure order.

(2) A person guilty of an offence under sub-paragraph (1) is liable on conviction to imprisonment for a term not exceeding 12 months or an unlimited fine (or both).

(3) A person commits an offence if, in purported compliance with a requirement imposed under a disclosure order, the person—

(a) makes a statement which the person knows to be false or misleading in a material particular, or

(b) recklessly makes a statement which is false or misleading in a material particular.

(4) A person guilty of an offence under sub-paragraph (3) is liable on conviction to imprisonment for a term not exceeding 2 years or an unlimited fine (or both).

Statements

8 (1) A statement made by a person in response to a requirement imposed under a disclosure order may not be used in evidence against that person in criminal proceedings.

(2) Sub-paragraph (1) does not apply on a prosecution for—

(a) an offence under paragraph 7(3),

(b) an offence under sections 110 or 113 of the Criminal Code.

Interpretation

9 (1) This paragraph applies for the interpretation of this Schedule.

(2) "Disclosure order" has the meaning given by paragraph 2.

(3) "Document" means anything in which information of any description is recorded.

(4) "Enactment" has the meaning given in paragraph 15 of Schedule 2.

(5) "Excluded material" means—

(a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence;

(b) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence;

(c) journalistic material which a person holds in confidence.

(6) "Personal records" has the meaning given in paragraph 15 of Schedule 2.

(7) "Journalistic material" has the meaning given in paragraph 15 of Schedule 2.

(8) A person holds material in confidence for the purposes of this paragraph if—

(a) the person holds it subject to an express or implied undertaking to hold it in confidence, or

(b) the person holds it subject to a restriction on disclosure or an obligation of secrecy contained in an enactment.

(9) The terms defined in paragraph 1 have the meanings given in that paragraph.

SCHEDULE 6

Section 27

DETENTION UNDER SECTION 27

PART 1

TREATMENT OF PERSONS DETAINED UNDER SECTION 27

Place of detention

1 (1) The Administrator may designate places at which persons may be detained under section 27.

(2) In this Schedule a reference to a police station includes a reference to any place which the Administrator has designated under sub-paragraph (1) as a place where a person may be detained under section 27.

(3) A police officer who arrests a person under section 27 must take the person as soon as is reasonably practicable to the police station which the officer considers the most appropriate.

Identification

2 (1) An authorised person may take any steps which are reasonably necessary for—

(a) photographing the detained person,

(b) measuring the detained person, or

(c) identifying the detained person.

(2) In sub-paragraph (1) "authorised person" means any of the following—

(a) a police officer;

(b) a prison officer;

(c) a person authorised by the Administrator.

(3) This paragraph does not confer the power to take fingerprints, non-intimate samples or intimate samples.

Video recording of interviews

3 (1) This paragraph applies to any interview by a police officer of a detained person that takes place in a police station.

(2) An interview to which this paragraph applies must be video recorded with sound where it is reasonably practicable to do so.

(3) The Administrator must issue a code of practice about the video recording of interviews to which this paragraph applies.

(4) The video recording of interviews under this paragraph must be conducted in accordance with a code of practice issued under sub-paragraph (3).

(5) The failure by a police officer to observe a provision of a code does not of itself make the officer liable to criminal or civil proceedings.

(6) A code—

(a) is admissible in evidence in criminal and civil proceedings, and

(b) is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

(7) The Administrator may revise a code and issue the revised code.

4 (1) Before issuing a code of practice under paragraph 3(3), the Administrator must consult the Presiding Judge.

(2) The Administrator must bring the code into operation by order made as a public instrument.

(3) An order made under sub-paragraph (2) may contain any transitional provisions and savings that appear to the Administrator to be necessary or expedient in relation to bringing into operation the code to which the order relates.

(4) The code must be published in the Gazette.

(5) This paragraph applies to a revised code under paragraph 3(7) as it applies to a code issued under paragraph 3(3).

Status

5 A detained person is to be treated as being in legal custody throughout the period of the person's detention.

PART 2

RIGHTS OF PERSONS DETAINED UNDER SECTION 27

Right to have named person informed of detention

6 (1) Subject to paragraph 9, a person detained under section 27 is entitled, if the person so requests, to have one named person informed as soon as is reasonably practicable that the person is being so detained.

(2) The person named must be—

(a) a friend of the detained person,

(b) a relative of the detained person, or

(c) a person who is known to the detained person or who is likely to take an interest in the detained person's welfare.

(3) A detained person must be informed of the right under this paragraph on first being detained.

(4) Where a detained person is transferred from one place to another, the person is entitled to exercise the right under this paragraph in respect of the place to which the person is transferred.

Right to consult an advocate

7 (1) Subject to paragraph 9, a person detained under section 27 is entitled, if the person so requests, to consult an advocate as soon as is reasonably practicable, privately and at any time.

(2) Where a request is made under sub-paragraph (1), a record must be made of the request and the time at which it was made.

(3) A detained person must be informed of the right under this paragraph on first being detained.

8 (1) Where a person exercises the right under paragraph 7 to consult an advocate, a police officer of at least the rank of Superintendent may direct that—

(a) the person may not consult the advocate who attends for the purpose of the consultation, or who would so attend but for the giving of the direction, but

(b) the person may consult a different advocate of the person's choosing.

(2) A direction under this paragraph may be given before or after a person's consultation with an advocate has started (and if given after it has started, the right to further consult that advocate ceases on the giving of the direction).

(3) An officer may give a direction under this paragraph only if the officer has reasonable grounds for believing that, unless the direction is given, the person's consultation with the advocate will have any of the consequences specified in sub-paragraph (4).

(4) Those consequences are—

(a) interference with or harm to evidence of a relevant offence,

(b) interference with or physical injury to any person,

(c) the alerting of persons who are suspected of having committed a relevant offence but who have not been arrested for it,

(d) the hindering of the recovery of property obtained as a result of a relevant offence,

(e) interference with the gathering of information about a person's involvement in foreign power threat activity,

(f) making it more difficult, by the alerting of a person, to prevent foreign power threat activity, and

(g) making it more difficult, by the alerting of a person, to secure a person's apprehension, prosecution or conviction in connection with the person's involvement in foreign power threat activity.

(5) In this paragraph, "relevant offence" means an offence punishable with imprisonment for a term of at least 6 months.

Delay in exercise of rights

9 (1) A police officer of at least the rank of Superintendent may authorise a delay—

(a) in informing the person named by a detained person under paragraph 6;

(b) in permitting a detained person to consult an advocate under paragraph 7.

(2) But the detained person must be permitted to exercise the rights under paragraphs 6 and 7 before the end of the period of 24 hours beginning with the time of the person's arrest under section 27.

(3) An officer may authorise a delay under sub-paragraph (1) only if the officer has reasonable grounds for believing—

(a) in the case of an authorisation under sub-paragraph (1)(a), that informing the named person of the detained person's detention will have any of the consequences specified in paragraph 8(4), or

(b) in the case of an authorisation under sub-paragraph (1)(b), that the exercise of the right under paragraph 7 at the time when the detained person desires to exercise it will have any of the consequences specified in paragraph 8(4).

(4) Where an officer authorises a delay under sub-paragraph (1) orally, the officer must confirm it in writing as soon as is reasonably practicable.

(5) Where an officer authorises a delay under sub-paragraph (1)—

(a) the detained person must be told the reason for the delay as soon as is reasonably practicable, and

(b) the reason must be recorded as soon as is reasonably practicable.

(6) Where the reason for authorising delay no longer applies, there may be no further delay in permitting the exercise of the right in the absence of a further authorisation under sub-paragraph (1).

SCHEDULE 16

Section 88

DAMAGES AT RISK OF BEING USED FOR THE PURPOSES OF TERRORISM

Freezing orders

1 (1) This Schedule applies in relation to civil proceedings where the claimant claims damages in those proceedings.

(2) The court seised of those proceedings may, on the application of the Administrator, make a freezing order under this paragraph.

(3) A freezing order, in relation to an order made by the court awarding damages in favour of the claimant, is an order that all or part of the damages awarded—

(a) are to be paid into court, and

(b) are to remain in court until the end of the initial freezing period.

(4) A court may not make a freezing order unless satisfied that, if damages are paid to the claimant, there is a real risk that those damages will be used for the purposes of terrorism.

(5) An application for a freezing order may be made at any time until there is no further possibility of an appeal on which the order awarding damages in favour of the claimant may be varied or quashed.

(6) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored for the purposes of sub-paragraph (5).

(7) Where the court makes an order awarding damages in favour of the claimant, the court may suspend the effect of that order until it decides the application for a freezing order.

(8) In this paragraph—

"civil proceedings" means any proceedings other than criminal proceedings;

"the initial freezing period" is the period of 2 years beginning with the day on which the freezing order is made.

Extension of freezing order

2 (1) This paragraph applies where a court has made a freezing order under paragraph 1.

(2) The court may, on the application of the Administrator, make an extension order under this paragraph.

(3) An extension order is an order that all or part of the damages paid into court pursuant to a freezing order are to remain in court until the end of the period of 4 years beginning with the day on which the freezing order was made ("the extended freezing period").

(4) A court may not make an extension order unless satisfied that, if the damages to which the extension order relates are paid to the claimant at the end of the initial freezing period (or, if later, when the court decides the application), there is a real risk that those damages will be used for the purposes of terrorism.

(5) An application for an extension order must be made before the end of the initial freezing period.

(6) Sub-paragraph (7) applies where—

(a) an application is made under this paragraph, and

(b) the court has not decided the application before the end of the initial freezing period.

(7) The damages to which the application relates are to remain in court until the court decides the application.

Forfeiture

3 (1) This paragraph applies where a court has made an extension order under paragraph 2.

(2) The court may, on the application of the Administrator, order that all or part of the damages in court by virtue of the extension order are to be forfeited (a "forfeiture order").

(3) The court may not make a forfeiture order unless satisfied that, if the damages to which the forfeiture order relates are paid to the claimant at the end of the extended freezing period (or, if later, when the court decides the application), there is a real risk that those damages will be used for the purposes of terrorism.

(4) Damages forfeited pursuant to a forfeiture order, and any accrued interest on those damages, are to be paid to the Sovereign Base Areas Administration when there is no further possibility of an appeal on which the forfeiture order may be varied or quashed.

(5) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored for the purposes of sub-paragraph (4).

(6) An application for a forfeiture order must be made before the end of the extended freezing period.

(7) Sub-paragraph (8) applies where—

(a) an application is made under this paragraph, and

(b) the court has not decided the application before the end of the extended freezing period.

(8) The damages to which the application relates are to remain in court until the court decides the application.

Interpretation

4 In this Schedule—

"the claimant" means the claimant in proceedings mentioned in paragraph 1(1);

"the extended freezing period" has the meaning given by paragraph 2(3);

"extension order" has the meaning given by paragraph 2(3);

"freezing order" has the meaning given by paragraph 1(3);

"the initial freezing period" has the meaning given by paragraph 1(8);

"terrorism" has the same meaning as in section 3 of the Counter-Terrorism Ordinance 2016.

SCHEDULE 18

Section 94

MINOR AND CONSEQUENTIAL AMENDMENTS

Official Secrets Act 1911 (c. 28)

1 The Official Secrets Act 1911 is repealed.

Official Secrets Act 1920 (c. 75)

2 The Official Secrets Act 1920 is repealed.

Official Secrets Act 1939 (c. 121)

3 The Official Secrets Act 1939 is repealed."

EXPLANATORY NOTE

(This note is not part of the Order in Council)

This Order extends to the Sovereign Base Areas of Akrotiri and Dhekelia certain provisions of the National Security Act 2023 (c. 32) ('the UK Act') with modifications for the Sovereign Base Areas.

The Schedule to this Order sets out the provisions extended, in their modified form, to the Sovereign Base Areas. The numbering of provisions in the Schedule replicates that of the UK Act for sections and schedules, for convenience in referring to that Act, but the numbering of paragraphs within the schedules and of subsections within the sections does not replicate the UK Act due to the nature of modification required to extend those provisions.

In particular, the provisions as extended in the Schedule:

- create offences to safeguard protected information and trade secrets and criminalise assisting a foreign intelligence service (sections 1 to 3),
- establish a separate regime to protect sensitive sites from espionage and other state threats by criminalising specified conduct in relation to those sites and providing powers to police officers to deal with such conduct (sections 4 to 11),
- create an offence of sabotage to capture state-linked saboteurs (section 12),
- create offences to protect against foreign interference (sections 13 to 15),
- create offences relating to material benefits obtained from foreign intelligence services (section 17),
- create an offence relating to preparatory conduct (section 18),
- provide to police officers powers relating to entry, search and seizure (section 23 and Schedule 2) and arrest (section 27 and Schedule 6), and allow for courts to make disclosure orders (section 24 and Schedule 3),
- introduce a duty for a court to consider whether it is appropriate to reduce an award of damages to reflect terrorist activity on the part of a claimant in national security proceedings where an application is made by the Crown (sections 84 to 87),
- allow for freezing and forfeiture orders to be made by a court to prevent the payment of damages to a claimant where it is satisfied that there is a real risk of the funds being used for the purposes of terrorism (section 88 and Schedule 16), and
- repeal the Official Secrets Act 1911 (c. 28), the Official Secrets Act 1920 (c. 75) and the Official Secrets Act 1939 (c. 121) in the Sovereign Base Areas (section 94 and Schedule 18).

Article 4 of this Order saves the repealed Acts for conduct taking place before 23rd October 2024, including offences suspected of being committed.

An Impact Assessment has not been prepared for this Order. The territorial extent of this Order is the Sovereign Base Areas and no, or no significant, impact is foreseen on the private, voluntary or public sector in the United Kingdom.

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