

# The Creation of an English Criminal Code: 6 Acts

## Third Act - State Crimes

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*This third article argues that all legislation on official secrets and terrorism should be consolidated into a State Crimes Act. Legislation on treason and treason felony should be abolished as obsolete, to be replaced (possibly) by 2 modern crimes of: (a) treachery; and (b) intimidation of Parliament. Various obsolete common law crimes should be abolished.*

### **1. Introduction**

Two previous articles<sup>1</sup> have looked at the consolidation of all English criminal law into 6 pieces of legislation *viz.* the first two (italicized) of the following Crime Acts:

- *Sex Crimes Act*
- *Property & Finance Crimes Act*
- State Crimes Act
- Public Order Crimes Act
- Weapons Act
- Crimes against the Person Act.

The above 6 Acts could, then, be reduced - without difficulty - into a *Criminal Code* which has 3 Parts.<sup>2</sup> This article on the consolidation of criminal law (both the legislation and the common law) looks at a *State Crimes Act*. That is, crimes directed against the State in some fashion. The reference to 'State' - in the UK context (as opposed to other countries) - refers to Parliament and the democratic apparatus of government (i.e. ministers, political parties, civil servants, armed forces *etc.*). Thus, '*State crimes*' refer to crimes which are intended by the perpetrator(s) to weaken the State against its enemies - whether such enemies are internal or external. For example, by betraying State secrets - or waging war/insurrection *via* civil war<sup>3</sup> or terrorism (and bombing). Although these crimes may, also, be treated as crimes against the '*public order*', they are of a greater (and more serious) dimension to the latter which, generally, covers crimes such as riot and violent disorder. State crimes are, also, rare in comparison with other crimes - with relatively few persons having been convicted of official secrets crimes or terrorism since WW2 (1939-45). Thus, a State Crimes Act should contain criminal legislation relating to the following:

- Official Secrets (also, Espionage/Sabotage)
- Terrorism
- *Treason/Treason Felony (obs)*

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<sup>1</sup> See G S McBain, *The Creation of a UK Criminal Code: 6 Acts. First Act - Sex Crimes* (2025) International Law Research ('ILR'), vol 14, no 1, pp 1-69 (*free online*). See also *Ibid, Second Act - Property and Finance Crimes Act* (2025) ILR, Vol 14, no 1, pp 70-105 (*free online*). I refer to '*English Criminal Code*', however, it would comprise all UK criminal legislation, to the extent the legislation being consolidated refers to the same. It may be noted that the criminal law in Wales and Northern Ireland is, generally, very similar to that in England. That in Scotland, less so.

<sup>2</sup> The first would cover *Crimes against the Person*, including Sex Crimes. The second would cover *Public Order Crimes*, including crimes involving weapons and those against the State. The third part would cover *Property and Finance Crimes*.

<sup>3</sup> The last civil war was in 1642-9 in the reign of Charles I (1625-49). It was a war waged against the *sovereign to dethrone him*. Such would be (very) unlikely today since the sovereign is a constitutional sovereign and, since 1688, it is clear that the same can be appointed - and be required to abdicate (or have their abdication accepted) - by Parliament only (see Bill of Rights 1688) and not by waging any civil war against him/her. Thus, any civil war, today, would - very likely - only be against Parliament and the State institutions (armed forces, government *etc.*) and the Treason Act 1351 will not be applicable (save by legal construction, which is inappropriate in modern times).

The content of a State Crimes Act is now considered.

## **2. Official Secrets Legislation (also Espionage/Sabotage)**

Legislation on the above was, until recently, contained in the Official Secrets Acts 1911, 1920, 1939 and 1989. These were repealed and superseded by the National Security Act 2023 apart from a few sections in the Official Secrets Act 1989 which should have been incorporated into the 2023 Act. For the text of both, see *Appendix 1*.

<u>Act</u>		<u>No of Sections (total 115)</u>
• Official Secrets Act 1989	(ss 1-15)	15
• National Security Act 2023	(ss 1-100)	100

The above material should be included in a State Crimes Act. As importantly, all *administrative material* should be placed in *Appendices* and only the *crimes* in the text since the former, often, is not applicable to the matter in hand. For example, the 2023 Act contains the following parts:

- Part 1 - Espionage, Sabotage and Persons acting for Foreign Powers
- Part 2 - Prevention and Investigation of Offences
- Part 3 - Review of the Operation of Parts 1 & 2
- Part 4 - Foreign Activities and Foreign Influence Registration Scheme
- Part 5 - Terrorism (see 3 below)*
- Part 6 - Miscellaneous and General Provisions

As to these, Parts 2-4 and 6 are, mainly, administrative. Thus, they should be in *Appendices*. For Part 5, this should be aligned with terrorism legislation in a consolidation Act since it specifically deals with that.

## **3. Terrorism Legislation**

Part 2 of a State Crimes Act should consolidate all terrorism legislation. Presently, it comprises the following:

<u>Act</u>		<u>No of Sections (total 372)</u>
• Criminal Law Act 1977	(s 51, bomb hoaxes)	1
• <i>Suppression of Terrorism Act 1978</i>	(ss, 4-5 jurisdiction)	2
• <i>Criminal Justice (Terrorism and Conspiracy) Act 1998</i>	(amends)	
• Terrorism Act 2000		145
• Anti-Terrorism, Crime and Security Act 2001	(amends in part, also nuclear bombs)	68
• Terrorism Act 2006	(ibid)	17
• Counter Terrorism Act 2008	(ibid)	74
• <i>Terrorism Asset-Freezing etc 2010</i>	(spent)	
• Terrorism Prevention and Investigation Measures 2011		26
• Counter Terrorism and Border Security Act 2015		45
• <i>Criminal Finances Act 2017</i>	(amends)	
• <i>Terrorist Offenders (Restriction of Early Release) 2020</i>	(amends)	
• National Security Act 2023	(ss 84-88)	4

As to these, the *Suppression of Terrorism Act 1978* (see *Appendix 2*) deals with *jurisdiction* in respect of various crimes and not just with crimes of terrorism. Thus, the 2 sections extant would be better placed in a *Criminal Procedure Act*, not here. The *Terrorism Acts* of 2000, 2001, 2006, 2008, 2011 and 2015 and their texts are not set out in *Appendix 2* being too lengthy. For the others, see *Appendix 2*. All the above should be consolidated, using the 2000 Act as the base. This would cut out much surplusage and make their reading more intelligible. It may be noted that the 2001 Act contains crimes relating to the possession and use of nuclear bombs (ss 47-57, 67, 113-5). This should be included in this State Crimes Act - and not a Weapons Act - since such is linked to terrorism in general and not to ordinary public order crimes which involve weapons such as knives and guns.

***In conclusion, all current terrorism legislation should be consolidated.***

## **4. Treason/Treachery Legislation**

There are various Treason Acts still extant, *viz.*

<u>Act</u>	<u>No of Sections (total 14)</u>
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•	Treason Act 1351		1
•	Treason Act 1495	(de facto sovereign, re levying war)	1
•	Crown of Ireland Act 1542	( <i>applies to NI only</i> )	1
•	Treason Act 1695	( <i>procedural, 3 year limitation</i> )	1
•	<i>Treason Act 1702</i>	(hindering succession)	1
•	<i>Treason Act (Ireland) 1703</i>	( <i>applies to NI only, extends 1702 Act</i> )	1
•	<i>Treason Act 1708</i>	( <i>extends English 1351 treason crimes to Scotland</i> )	4
•	Treason Act 1814	(s 1, punishment, life imprisonment)	1
•	<i>Treason (Ireland) Act 1821</i>	( <i>applies to NI only, extends 1695 Act</i> )	1
•	Treason Act 1842	(assault on sovereign only, no treason as such)	1
•	Criminal Law Act	(s 12(6), <i>procedural</i> )	1 <sup>4</sup>

For the texts of these Acts, see *Appendix 3* (save for the 1351 Act which is reproduced below). The principal Act is the Act of 1351. It states in translation (the original language is Anglo-Norman):

**Declaration what Offences shall be adjudged Treason. Compassing the Death of the King, Queen, or their eldest Son; violating the Queen, or the King's eldest Daughter unmarried, or his eldest Son's Wife; levying War; adhering to the King's Enemies; killing the Chancellor, Treasurer, or Judges in Execution of their Duty.** Item, whereas divers Opinions have been before this Time in what Case Treason shall be said, and in what not; the King, at the Request of the Lords and of the Commons, hath made a Declaration in the Manner as hereafter followeth, that is to say;

When a Man doth compass or imagine the Death of our Lord the King, or of our Lady his Queen] or of their eldest Son and Heir; or if a Man do violate the King's [Companion,] or the King's eldest Daughter unmarried, or the Wife the King's eldest Son and Heir;

*or if a Man do levy War against our Lord the King in his Realm, or be adherent to the King's Enemies in his Realm, giving to them Aid and Comfort in the Realm, or elsewhere, and thereof be [probably]f attainted of open Deed by the [People] of their Condition,* <sup>6</sup>

and if a Man slea the Chancellor, Treasurer, or the King's Justices of the one Bench or the other, Justices in Eyre, or Justices of Assise, and all other Justices assigned to hear and determine, being in their Places, doing their Offices: And it is to be understood, that in the Cases above rehearsed, [that] ought to be judged Treason which extends to our Lord the King, and his Royal Majesty (*divided for ease of reference*)

These crimes have been considered in detail in various articles by the author<sup>7</sup> and it has been asserted that the crimes of (see non-italicized text above):

- conspiring (i.e. plotting) the death of the sovereign, his queen or eldest son (heir)
- violating (raping)<sup>8</sup> the queen or eldest daughter (if unmarried) or the wife of his eldest son (heir), and
- killing the Lord Chancellor, Lord High Treasurer (*obs*) or a judge of the King's Bench (when sitting),<sup>9</sup>

are better covered by the modern law of murder, rape and conspiracy. Thus, they should be repealed as obsolete. As for the remaining 2 crimes of treason in this Act which comprise:

- (a) levying (i.e. waging) civil war against the sovereign; and
- (b) aiding (i.e. helping) the enemies of the sovereign against him in wartime,

<sup>4</sup> Misprision (also, sometimes, spelt misprison) of treason is a common law offence committed when a person is aware of the commission of treason (or a conspiracy to commit the same) and fails to report it (i.e. conceals it). See *R v Tonge* (1662) 6 ST 225 and *R v Walcott* (1683) 9 ST 519. Also, Criminal Law Act 1967, ss 5 & 12(6). If treason legislation is repealed, common law *misprision of treason* should be abolished.

<sup>5</sup> The actual word is, very likely, '*provably*'. Thus, the meaning is that - to convict a person of levying war or aiding the enemy - this must be proven by an open act (deed). From very early times, in the case of the former, this open act was by riding (i.e. fighting a battle) against the raised royal standard, see later in the text.

<sup>6</sup> '*Condition*' referred to the status of the accused. A lord could only be tried by his peers in Parliament (now abolished).

<sup>7</sup> See (a) GS McBain, *Abolishing the Crime of Treason* (2007) 81 Australian Law Journal ('ALJ') 94-134; (b) GS McBain, *Killing the Sovereign or Her Judges* (2009) King's Law Journal 457-88; (c) GS McBain, *High Treason: Violating the Sovereign's Wife* (2009) Legal Studies, vol 29(2) 264-80; (d) GS McBain, *Abolishing the Crime of Treason Felony* (2007) 81ALJ 812-38; (e) GS McBain, *Abolishing the Crime of High Crimes and Misdemeanours* (2011) 85 ALJ 810-79.

<sup>8</sup> The Treason Act 1351 is not clear whether it covered consensual sex with the same. However, two of the wives of Henry VIII (1509-47) - Anne Boleyn and Catherine Howard - were executed under specific Henrician legislation for this. Thus, it seems clear that there was doubt in those times as to the application of the Treason Act 1351. See article (c) in fn 7.

<sup>9</sup> The 1351 Act does not make it clear that it only applied when the same were performing their office. That is, sitting on the judicial bench. However, see the Scots legislation, Treason Act 1706, s 11 expressly states '*sitting in judgment in the exercise of their office*'. See *Appendix 3*.

these crimes are out of date and they should be modernized, along with the crime of treason felony (see 5). More importantly, the terms ‘*treason*’ and ‘*treason felony*’ should be dispensed with, regarding these 2 crimes, for the following reasons which necessitate brief reference to history:

- The Roman occupation of Britain ended c. 410 AD. Thereafter, Anglo-Saxons from Northern Germany (Saxony) migrated to England in increasing numbers. These peoples had a system of government (rule) in their native land in which they swore allegiance (a binding oath) to a king. One who was, invariably, their war leader (commander of the army) as well;
- The effect of swearing allegiance (to defend their king in return for protection) resulted in the creation of nationality - distinguishing the king’s ‘*people*’ from other ‘*peoples*’ (that is, other nations and tribes). The latter became the ‘*enemy*’ in war;<sup>10</sup>
- Breaching allegiance to the sovereign was treated as high treason - the word ‘*treason*’ (*traison* in Anglo-Norman) meaning ‘*betrayal*’ - being a very serious crime meriting a gruesome death. Such included plotting to kill the sovereign (or his immediate family) or waging (civil) war on the same or aiding (helping) his foreign enemies when they made war against him;
- William I (1066-87) ended Anglo-Saxon rule in England and declared himself king of England in 1066, requiring all inhabitants to swear allegiance to him - whether directly or indirectly.<sup>11</sup> This had the effect of creating a nation state (England). Breaching (foreswearing) allegiance to him was high treason and punished as such. Further, any foreigner who sought to invade the realm (William I, also, dealt with invading Vikings) was treated as an ‘*enemy*’ who could be executed on the field - or expelled from the realm forthwith - if they did not swear allegiance. The Treason Act 1351 encapsulated these basic concepts and clarified them *legally* to a considerable extent - although many constructive treasons were, later, to develop;
- Thus, from 1351, ‘*levying war*’ occurred when a person (invariably a claimant to the throne) engaged the king in battle on the field (that is by open act/deed) in order to usurp him as ruler, the last case of which was in 1745 (at Culloden).<sup>12</sup> For committing this crime (a gross breach of peace which the king swore to uphold) a claimant to the throne (the cases relate to dynastic struggles leading to civil war) - and the armed forces of the same - could be slain in battle pursuant to the law martial and such was not taken to be murder, the courts being treated as being ‘*closed*’ the moment the king’s raised banner was challenged and battle initiated;
- Today, however, it is very unlikely that any person would seek to fight against the sovereign in order to seize the throne from him/her. In any case, the sovereign no longer exercises executive power over government. He is a formal head of state - and formal commander-in-chief of the armed forces - only.<sup>13</sup> Others govern and command, today, not he. Thus, waging war against the *king* is no longer the same as waging war against the *State* (that is, Parliament and the system of democratic government) including the British armed forces. Further, persons (with rare exceptions) do not swear allegiance to each incoming sovereign these days;
- In conclusion, today, the crime of levying war pursuant to the Act of 1351 is, strictly, inapplicable in the case of any future civil war,<sup>14</sup> since the same would not comprise a war which is fought against the *sovereign in person*, in order to dethrone him/her (which would not be possible even if the sovereign were defeated, if Parliament did not otherwise agree). Rather, it would be fought against Parliament in some fashion since Parliament, ultimately, controls - and finances (since 1688) - the armed forces and the apparatus of the State (ministers and their servants (civil servants) *etc*);
- Thus, the word ‘*treason*’ should be dispensed with, today, as inappropriate. Instead, the word ‘*treachery*’ is more appropriate in the formulation of any modern crime - the same being wider in purport and not involving any pre-requisite of allegiance. Such, also, applies in the case of the crime of ‘*aiding the enemy*’ (which only applied during wartime, that is, after an official declaration of war). The underlying purpose of this crime would not be to defeat the

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<sup>10</sup> For the development of nationality (and the nation state) under English law, see GS McBain, *Modernising UK Nationality and Immigration Law* (2024) Journal of Public Law, vol 16, no 1, pp 24-54 (*free online*).

<sup>11</sup> This was particularly so when William I in 1087 required all great men of the realm (1500 or so) to directly swear allegiance to him. They, then, required all their retainers to swear allegiance to them (as *mesne* (intermediate) lords) - thereby, instigating a system of military land ownership to the Crown. See also GS McBain, *Modernising English Land Law*, Part 1 (2019) International Law Research, vol 8, no 1, pp 30-84 and Part 2, pp 85-131 (*free online*).

<sup>12</sup> In 1745, the grandson of James II (1680-88), Charles Edward Stewart (1720-88) (‘*Bonnie Prince Charlie*’) challenged George II (1727-60) to the throne.

<sup>13</sup> The last time an English king led troops into battle was George II (1727-60) in 1743 (however, this was abroad, in Dettingen).

<sup>14</sup> It always had to be a *war* to come within the Treason Act 1351. However, *constructive treasons* were developed by the courts to cover large riots. Today, the same would not be applicable. Further, the application of constructive treasons in respect of levying war, effectively, ended after the Riot Act 1714.

sovereign in person and dethrone him (assuming there is still one). Rather, it would be to supplant the apparatus of the UK State (i.e. foreign assumption of UK executive power).

In conclusion, the Treason Act 1351 should be repealed *in toto* and the crimes of levying (waging) war against the sovereign and his armed forces - or aiding the enemy against the sovereign and his armed forces - should be dispensed with under that Act. That is not to say that there not should not be similar crimes as against the *State*. However, the first should be called ‘*treachery*’ (or betrayal of country). And, the second should be called ‘*aiding (helping) the enemy.*’ The first should be possible both in war and peace time (the Act of 1351 only covered the former; today, ‘*war*’ is rarely declared for legal reasons). The second should only apply in war time (as it did under the Act of 1351). These 2 modernised crimes should be considered in the context of treason felony (see 5). As for the other treason legislation mentioned above:

- The Act of 1495 has no precedent (it deals with it not being treason to levy war when fighting with a *de facto* sovereign). Also, it is unnecessary - succession to the throne now being (after 1688) determined by Parliament;<sup>15</sup>
- The Act of 1695 is procedural (it stipulates a 3 year limitation period for bringing treason proceedings). See, also, similar NI legislation in 1821;
- The Act of 1702 is (very likely) spent. It dealt with the crime of hindering succession to the throne in the case where Queen Anne (1702-14) did not have children (which occurred) and in the case of Princess Sophia, Electress of Hanover being alive (she died in 1714). Her son became George I (1714-27). See also similar NI legislation in 1703;
- The Act of 1708 applies to Scotland only, extending English treason legislation to the same;
- The Act of 1814 stipulates the punishment for treason only;
- The Act of 1842 is better placed in a Crimes against the Person Act, since it does not deal with the crime of treason as such, but with a ‘*high misdemeanour*’ (i.e. assault on the sovereign) The latter term should be abolished (see 7).

***In conclusion, all statutory treason legislation should be repealed. And, the crimes of waging war and helping the enemy should be re-stated in modern terms. This would remove a lot of dubious law and legal fictions (that the sovereign actually commands the armed forces etc).***

### **5. Treason Felony Legislation**

This legislation comprises the Treason Felony Act 1848. It has been dealt with at length, in a legal article by the author.<sup>16</sup> It was enacted since Victorian juries were, increasingly, reluctant to convict persons for treason - especially, in Ireland. This legislation, also, comprised an attempt to update the Treason Act 1351 *re* the crimes of levying war and aiding the enemy. The gravamen of this Act of 1848 is s 3. It provides as follows:<sup>17</sup>

**Offences declared felonies by this Act to be punishable by transportation or imprisonment.** If any person whatsoever shall, within the [UK] or without,

[1] compass, imagine, invent, devise, or intend to deprive or depose our Most Gracious Lady the Queen, from the style, honour, or royal name of the imperial crown of the [UK], or of any other of [HM’s] dominions and countries, or

[2] to levy war against [HM], within any part of the [UK], in order by force or constraint to compel her to change her measures or counsels, or

[3] in order to put any force or constraint upon or in order to intimidate or overawe both Houses or either House of Parliament, or

[4] to move or stir any foreigner or stranger with force to invade the [UK] or any other of [HMs] dominions or countries under the obeisance of [HM],

and such compassings, imaginations, inventions, devices, or intentions, or any of them, shall express, utter, or declare, by publishing any printing or writing or by any overt act or deed, every person so offending shall be *guilty of felony, and being convicted thereof shall be liable to be transported beyond the seas for the term or his or her natural life [obs] (wording divided for ease of reference)*

Effectively, the 1848 Act stipulates 4 crimes (conflated to 3) *viz.*

- Conspiring (in or outside the UK) to deprive the sovereign of the imperial title;
- Conspiring (in or outside the UK) to levy war against the sovereign in any part of the UK in order - by force or constraint - to compel her to change her measures or counsels;

<sup>15</sup> i.e. it is Parliament which makes and unmakes a sovereign, whether *de facto* or *de jure*. In 1688, Parliament declared that James II (1680-88) had abdicated the throne (he fled the realm) and it appointed William of Orange and his wife, king and queen. See Bill of Rights 1688 (*extant*)

<sup>16</sup> See fn 7(d). See also *R (Rushbridger) v AG* [2003] UKHL 38, [2024] 1 AC 357.

<sup>17</sup> For the other ss, see *Appendix 3*.

It is asserted these crimes are no longer needed (see below). Also, as to the other crimes in the 1848 Act:

- Conspiring (in or outside the UK) to levy war against the sovereign in any part of the UK in order in order<sup>18</sup> to put any force or constraint on - or in order to intimidate *or overawe*<sup>19</sup> - both Houses (or either) House of Parliament;
- Conspiring (in or outside the UK) to *move or stir*<sup>20</sup> any foreigner or stranger with force to invade the [UK] or any other of [HMs] dominions *or countries under the obeisance of [HM] [obs]*<sup>21</sup>

The language in the 1848 Act is both convoluted (confusing) and archaic. The words ‘*compass, imagine, invent, devise*’ are older formulations of Treason legislation when it related to conspiracy (including ‘*plotting*’). Although the 1848 Act never made it express, in its terms, that the above crimes required *violence*, this was the clear basis on which this legislation was enacted.<sup>22</sup> These crimes were not designed to apply when people democratically agitated for the removal of the imperial title of the sovereign (in the press, at mass meetings *etc*) or when it resulted from constitutional process. As it is, the following may be stated, having also regard to historical events which have occurred since 1848 when the Act was enacted:

- ***Levying War against the Sovereign - Conspiring to remove Title of Sovereign.*** This crime is otiose. Today, (indeed since 1688) only the UK Parliament can deprive the sovereign of his/her title as sovereign in the UK (see Bill of Rights 1688). As for those 14 other countries which have the UK sovereign as their own sovereign,<sup>23</sup> in modern times, it has never been denied - either by the UK sovereign or the UK government - that these jurisdictions can remove the UK sovereign as their head of state by means of their own democratic process (the 1848 Act would not apply, anyway, since it is predicated on violent conspiracy). As for a violent attempt to remove such a title in, say, Australia or Canada or Jamaica - these being *independent countries* with their own Parliaments and constitutional structure - it would be for that country to deal with such an event (whether by ratification or criminal punishment). It is very unlikely that the sovereign *per se* or the UK Government or the UK courts would wish to be involved. It is also very unlikely that any accused would enter the UK to make themselves susceptible to arrest under the 1848 Act. Thus, today, this crime would, in fact, only apply to the UK (where it is otiose due to the Bill of Rights 1688) or to the 14 UK territories (whether overseas or home - these were, formerly, called ‘*dominions*’ and, prior to that, ‘*colonies*’). However, again, this crime would be otiose since any unconstitutional violent attempt would be ineffective unless the UK Parliament upheld the same.<sup>24</sup> There is, also, an important issue in that the 1848 Act refers to the ‘*Imperial*’ title. However, there is, today, no empire as well as no colonies, protectorates or dominions, unlike in 1848. Thus, today, the title of sovereign is a domestic one in the 14 UK territories and it could be removed through constitutional means. For example, if the people of Tuvalu no longer wanted to have the UK sovereign as their sovereign, there is no reason to be believe the UK Parliament would resist this. In conclusion, this crime is no longer necessary;
- ***Levying War against the Sovereign - re Legislation and Advice.*** This was - effectively - a more modern re-statement in 1848 Act of the Treason Act 1351 of the crime of waging war against the sovereign (and his armed forces) in order to dethrone the same as the executive head of government. As such, it was recognized (in 1848) that the Treason Act 1351 wording was no longer topical (apt). Thus, the 1848 Act reduced this crime - of waging (levying) war - to one of conspiring to ‘*force or constrain*’ (i.e. prevent) - the sovereign from changing her ‘*measures or counsels.*’ The former, likely referred to legislation (general or local - possibly, also, proclamations). And, the latter to the sovereign (at that time, Queen Victoria) giving advice to her ministers. However, today, the sovereign is a constitutional monarch - he does not exercise executive

<sup>18</sup> Here, the implicit wording - which should have been explicit - is ‘*by violent means*’.

<sup>19</sup> ‘*Overawe*’ is little more than a synonym for ‘*intimidate*’.

<sup>20</sup> This is archaic wording and (likely) refers to ‘*persuading, encouraging, inciting*’. Cf. Act of 1351 (‘*aid*’), the word generally meaning ‘*help*’.

<sup>21</sup> There are no longer any UK protected states (protectorates).

<sup>22</sup> The 1848 Act was specifically intended to deal with political events in Ireland at the time. There, there was huge debate (with mass rallies (meetings)), such as those led by the orator Daniel O’Connell (1775-1847), as to whether Victoria (1837-1903) should be a queen of a separate Ireland or not all at. There were also groups using violent means to seek such an objective. However, most Irish juries did not wish to convict the latter under the Treason Act 1351 (also, there was no levying ‘*war*’ as such). Thus, the 1848 Act was enacted in order to (in effect) ‘*downgrade*’ treason to a felony. This 1848 Act never worked very well and there appears to have been no caselaw since 1875. The Act was not well drafted in any case.

<sup>23</sup> These comprise: Antigua and Barbuda, Australia, Bahamas, Belize, Canada, Grenada, Jamaica, New Zealand, Papua New Guinea, St Kitts & Nevis, St Lucia, St Vincent and the Grenadines, Solomon Islands and Tuvalu.

<sup>24</sup> For example, suppose there was a violent ‘*coup*’ in Jersey (a home territory) and the new regime determined on removing the title of the sovereign, such would be ineffective unless the UK Parliament accepted the same. Further, a violent ‘*coup*’ would result in other crimes being committed (riot, assault *etc*) with sufficient penal provision not to need an additional crime.

power, or input, in respect of legislation.<sup>25</sup> Further, he is titular head of the armed forces only. Thus, this crime is unnecessary since the sovereign does not control legislation. Further, any advice given by the sovereign to ministers is no more than that - advice. They are not obligated to comply - being ministers of the Crown<sup>26</sup> and not servants (paid employees) of the reigning sovereign (*rex regnans*) as they were in olden times. Thus, this crime has, since 1848, effectively transmuted (merged) into the crime of seeking to intimidate Parliament, in practical application (see below). Thus, this crime is, also, otiose;

- ***Levying War against the Sovereign - Intimidate or Overawe Parliament.*** The reference to the 'sovereign' is unnecessary here today, for the reason given above (i.e. the sovereign no longer exercises executive power). Thus, the crime should be (if anything) one of levying war against Parliament in order to 'intimidate' it from enacting (passing) - or not - legislation. Further, 'levying war' should be a reference to 'violence' since it should not cover only actual civil war against the armed forces controlled by Parliament but, rather, riots, insurrections *etc* against Parliament - in the UK - with the object of intimidation being the intent to prevent the passage (or not) of legislation. A good example from the past are the Gordon Riots of 1781.<sup>27</sup> Indeed, one would suggest that this wording in the 1848 Act derived from such. *Is this crime still needed, however?* Today, there are many pieces of legislation dealing with riot, violent disorder, terrorism, the use of offensive weapons, array in military uniform *etc* - as well as provisions dealing with the physical protection of the area around Parliament such that, it is suggested, a new formulation of the 1848 Act might not be needed (this crime has no precedent anyway). Further, it should be noted that the 1848 Act wording only refers to 'any part of the UK' it was not intended to deal with imperial legislatures at the time. Thus, this crime would not apply to UK territories or to countries which still have the UK sovereign as their sovereign. As it is, if a new formulation is intended, one would suggest that it refer to intimidation by violent means to force - or prevent - the enactment of general legislation by Parliament;<sup>28</sup>
- ***Moving (stirring) foreigners to invade the UK or other Dominions.*** This is allied to - but not identical to - the Treason Act 1351 crime of aiding (helping) the enemy in wartime. The words 'moving or stirring' are opaque. It is not clear whether they would include simply seeking to persuade a potential enemy (which becomes an enemy when they actually invade) to invade. Further, this wording is not linked to war time as such. There is no precedent to this case. However, it is suggested that there should be a crime of treachery to deal with the case of a specified person<sup>29</sup> who - in war time - helps (aids) the enemy.<sup>30</sup> Express examples should be set out in a schedule since these change over time - given modern methods of communication *etc.*<sup>31</sup>

<sup>25</sup> No minister (including the prime minister) is obliged to take instructions from the sovereign who, at most, can only advise. This transition commenced in the reign of Queen Victoria (1837-1903). See GS McBain, *Modernising the Government - A Government Act* (2022) International Law Research, vol 11, no 1, pp 62-116, especially pp 68-71.

<sup>26</sup> The Crown means the sovereign in his/her legislative capacity - this referring to the sovereign sitting in Parliament with his/her Crown on. Such was an actuality from the time of William I (1066-87) who had Crown wearing ceremonies in which he passed legislation (this was pre-Parliament as such) in the presence of his great men of the realm. Probably, Crown wearing by the sovereign previously existed in Anglo-Saxon times when the king met with his *witan gemote* - being a meeting (*gemote*, moot) of his wise men (his counsellors, *witan*) - after the king summoned them to his palace in order to discuss, and resolve, affairs of state. The Anglo-Saxon dooms (legislation) clearly show the latter.

<sup>27</sup> Here, there was widespread rioting in London which lasted many days (7<sup>th</sup>-9<sup>th</sup> June 1780) to protest against the enactment of the Papists Act 1778.

<sup>28</sup> *viz.* Intimidation of Parliament. 'It is a crime if a person A: (a) seeks to intimidate [threaten] Parliament (b) by violent means (c) in order to compel it (d) to enact (or not) (e) general legislation on any matter'. 'Parliament', generally, is a reference to the physical building located in London containing the two chambers (houses, anglo-saxon, *hus*) in which UK legislation is enacted. Reference to *proclamations* is not needed since they cannot change the law. See GS McBain, *Modernising the Constitution - A Crown Act* (2021) International Law Research, vol 10, no 1, pp 13-100, especially, pp 41-2 (*free online*). As to *private and local Acts*, these are now rare and they do not deal with major matters for which general legislation must be used. The general law of conspiracy would also apply and, thus, (a) would include a conspiracy (conspiring) to intimidate.

<sup>29</sup> Originally, treason could only be committed by a person who owed allegiance. However, local jurisdiction developed when a foreign person was physically present in the UK during war time. Today, it should apply: (a) to any person who is physically located in the UK or any UK (overseas or home) territory during war time; and (b) to any UK citizen abroad. These should fall within the definition of a 'specified person'. A UK citizen who formally notifies the Passport Office of his renunciation of UK citizenship would not fall within (b) thereafter (but still could fall within (a)). That person should be obliged to return his passport or provide evidence of its destruction, in order to exclude (b). A private act (simply privately destroying their passport) should not be enough. An official act should be required.

<sup>30</sup> *viz.* Treachery. 'It is a crime if a person (A): (a) helps; (c) the enemy; (d) during war time.' 'Help' would include any of the acts set out in a schedule. In the case of non-wartime (i.e. not when the help occurred after a declaration of war was made, up to a declaration of peace), it would be better for terrorism legislation to apply (i.e. a person working with governments/states which seek to overthrow the system of constitutional government and democracy in the UK or to use armed force (including invasion) against the same). In this crime 'A' would be a defined person.

<sup>31</sup> See caselaw examples under the Treason Act 1351, see article in n 7 (a).

In conclusion, the Treason Acts and the Treason Felony Act 1848 should be repealed.<sup>32</sup>

They are obsolete or not fit for purpose. However, consideration can be given to enacting 2 new crimes in their stead:

- One would comprise intimidating - by violent means - Parliament to seek to compel it to enact (or not) general legislation (the example would be the Gordon riots);
- The other would make it a crime - called either treachery or betrayal of country - for a specified person to help (assist) the enemy in war time.

One suspects that the first is not needed since there are various public order crimes that can be availed of.

## 6. Obsolete Common Law Crimes

There are 4 common law crimes linked to the State which should be abolished as unnecessary, *viz*:

- **Contempt on the Sovereign.** This is a generic crime. It may have been created by a legal writer Hawkins who grouped various contempts against the sovereign together in his legal text, as opposed to deriving the creation of such a crime from the decision(s) of common law judges. It is obsolete since it makes crimes things which would not, today, be such - given free speech and the sovereign no longer exercising executive authority over government. The last case appears to have been in 1702;<sup>33</sup>
- **Refusal to serve in a Public Office.** This is obsolete and should be abolished;<sup>34</sup>
- **Other Contempts.** In the State Trials series may be found other contempts against the sovereign which were punished in early times.<sup>35</sup> These crimes should be abolished, *ex abundante cautela*, reserving, however, 2 that are still availed of today *viz*: (a) contempt of court; and (b) contempt of Parliament;
- **High Crimes and Misdemeanours.** This was a generic description for a (motley) collection of crimes for which important people (the 'great men' of the realm, that is, counsellors/chief ministers to the sovereign) were prosecuted in Parliament in olden times when there might have been difficulty in securing a court (and jury) to convict - given their importance and influence.<sup>36</sup> The criminal process was by way of the House of Commons being the prosecutor and the House of Lords (in which sat senior judges to advise) trying the matter.<sup>37</sup> As to what was a 'high' (i.e. very serious) crime or misdemeanour was never clearly defined. It was something of an open category dependent on the tempo of the times and it often included many rather dubious constructive treasons which the legislature was, otherwise, reluctant to pass. Indeed, many of the cases derive from political infighting and Parliamentary factionalism. A list of cases evidences this as well as the poor conviction rate (even when convicted, many sentences were not carried out). The last case of high crimes and misdemeanours was in 1806 (it was unsuccessful). However, this (generic) crime effectively ended after 1745, especially with the formation of modern political parties and the sovereign no longer having an executive role. It was no longer required thereafter due to this change - as well as the judicial process (and impartiality) improving greatly. This generic crime is not required today and it should be abolished. Certainly, the caselaw includes many miscarriages of justice when political tempers were high and people thirsted for blood. Today, in any case, the only criminal process that can be employed (the process of impeachment) cannot be effected since the House of Lords no longer acts as a judicial court in any capacity, its senior judges having decamped to a Supreme Court (appropriately reflecting the separations of constitutional powers between the judicial and the executive).

***In conclusion, a State Crimes Act should provide for the abolition of the: (a) contempt of the sovereign; (b) refusal to serve in a public office; (c) any other form of contempt apart from: (i) contempt of court; and (ii) contempt of Parliament; (d) the generic crime of 'High Crimes and Misdemeanours.'* None of this would, likely, be contentious.**

## 7. Obsolete State Crimes in Legislation

There are some other State crimes in legislation which are obsolete and which should be repealed. These are dealt with in detail in an article by the author.<sup>38</sup> They comprise the following:

- **Foreign Enlistment Act 1870.** This makes it a crime for a British subject, without Crown licence:
  - to enlist in the military (or navy) of a foreign State at war with a State with which the UK is at peace (i.e. a friendly State).
  - to build, issue any commission for, equip or despatch any ship with the intent or knowledge (or having reasonable cause to believe) that it will be employed in the military (or navy) of a foreign State at war with a friendly state.

<sup>32</sup> Archbold (2024), ch 25-1, has removed analysis of the Treason Acts since 2009 'As it seems unlikely that there will be any prosecutions in the foreseeable future.'

<sup>33</sup> See for a detailed analysis, GS McBain, *Abolishing some Obsolete common law Crimes* (2009) 20 King's Law Journal 89-114.

<sup>34</sup> *Ibid*.

<sup>35</sup> Examples may be found, for example, in the *Complete Collection of State Trials* (by Salmon, 1730 ed).

<sup>36</sup> See generally, n 7(e) which also lists all the caselaw.

<sup>37</sup> Originally, the process could have been by way of *appeal*. However, it soon became restricted to *indictment* (i.e. a process of impeachment).

<sup>38</sup> GS McBain, *Modernising various Crimes against the State* (2014) Journal of Public Law, vol 8, no 4 (*free online*).



For the reason given in the article, this Act should be repealed and not replaced.<sup>39</sup>

- **Incitement to Disaffection Act 1934.** This Act (s 1) makes it a crime if any person maliciously and advisedly endeavours to seduce any member of Her Majesty's forces from their duty or allegiance to Her Majesty. This crime should be modernized in the manner described in the article, as should the Police Act 1996, s 91 (and the Ministry of Defence Police Act 1987, s 6);<sup>40</sup>
- **Aliens Restriction (Amendment) Act 1919.** This makes it a crime if any alien attempts (or does any act calculated or likely) to cause sedition or disaffection among any of HM's forces or the forces of her allies or among the civil population. It is also a crime if any alien promotes (or attempts to promote) industrial unrest in any industry in which he has not been *bona fide* engaged for, at least, 2 years immediately preceding in the UK. It should be repealed.<sup>41</sup> It may be noted that the crime of sedition has been abolished generally.

In conclusion, the Acts of 1870 and 1919 should be repealed. So too, the 1934 Act (and the Police Act 1996, s 91) with the crime being modernized, *viz.*

**Incitement not to perform Police or Military Duty.**

(1) It is a crime if a person:

- incites
- a serving
- PO [police officer] or
- member of the armed forces
- not to perform their duty.

## **8. Conclusion**

This may be stated succinctly:

- Legislation relating to official secrets and terrorism should be consolidated;
- All treason/treason felony legislation should be abolished, being obsolete or ineffective given constitutional and social change. Also, the common law offence of misprision of treason should be abolished. There should (possibly) be 2 new crimes to replace crimes in treason and treason felony legislation:
  - **Intimidation of Parliament.**

(1) It is a crime if a person (A):

    - seeks to intimidate [threaten] Parliament
    - by violent means
    - in order to compel it
    - to enact (or not enact)
    - general legislation on any matter.
  - **Treachery.**

It is a crime if a person (A):

    - helps [aids]
    - the enemy
    - during war time.
- The following obsolete common law crimes should be abolished: (a) the generic crime of contempt of the sovereign; (b) refusal to serve in a public office; (c) other contempts of the sovereign - save for contempt of Parliament and contempt of court; (d) the generic crime of high crimes and misdemeanours;
- The following obsolete legislation should be repealed: (a) Foreign Enlistment Act 1870; (b) Aliens Restriction (Amendment) Act 1919. The Incitement to Disaffection Act 1934 should, also, be repealed, as well as the Police Act 1996, s 91, and they should be replaced with a crime of inciting a serving police officer (or member of the armed forces) not to perform their duty (police will include a MOD police officer).

Further, as with prior articles, 4 other important points should be noted, which apply to all criminal legislation in fact.

<sup>39</sup> See also Archbold (2024) 25-297.

<sup>40</sup> Ibid, p 19. The Act, s 1 (*penalty on persons endeavouring to seduce members of [HM's] forces from their duty or allegiance*). If any person maliciously and advisedly endeavors to seduce any member of [HM's] forces from his duty or allegiance to [HM], he shall be guilty of an offence under this Act.' See, also, Archbold (2024) 25-322.

<sup>41</sup> See also Archbold (2024) 25-321 (it may be noted there are no longer any protectorates).

- **Bail/Powers of Arrest/Search/Asset Seizure/Forfeiture/Consent of the A-G/DPP etc.**<sup>42</sup> All this material should be in a *Criminal Procedure Act* since it is not specifying a crime as such. At present, it is laboriously repeated in distinct criminal legislation with slips and variants in the wording (see for example those in *Appendices 1-2*). Having to repeat this time after time (with variations and anomalies) in criminal legislation is ludicrous and ‘clogs’ the text. The wording for these matters should be common to all crimes (and can be by making cross-reference to the same). *I have marked this with an \* to identify it with regard to the legislation set out in the Appendices;*
- **Administrative Material.** There is, also, a large amount of administrative material at present in the text which should be in an *Appendix*, since it may not apply (for example, the large amount of *orders* which the police might secure). Such avoids clogging up the text and enables easy comparison between police orders (again, there are variations, anomalies and unnecessary repetitions). Another example is a section specifying the power of the Secretary of State to make regulations/orders by a SI. This is (endlessly) repeated.<sup>43</sup> There needs to be only 1 section in a *Criminal Procedure Act*. *I have marked this with a \*\* to identify it with regard to the legislation set out in the Appendices;*
- **Companies.** These can be involved in crimes. As with powers of arrest *etc* above, often, the same wording is (endlessly) repeated (but with older variants) for distinct crimes. Such repetition is unnecessary. *I have marked this with a \*\*\* to identify it with regard to the legislation set out in the Appendices;*
- **‘Public Place’.** There are older definitions of ‘*public place*’ in the criminal legislation. They are not useful. For example, the Street Offences Act 1959, s 1 refers to a ‘*street or public place*’. However, the latter, as a matter of course, should include the former and it should be the same throughout criminal legislation. This applies to other definitions. The more modern definition of ‘*public place*’ is better (and, oddly enough, accords with the original Anglo-Saxon view);

The next article will look at a Weapons Act.

### Appendix 1

#### Official Secrets Act 1989

S 1. **Security and intelligence.** (1) A person who is or has been (a) a member of the security and intelligence services; or (b) a person notified that he is subject to the provisions of this [ss] is guilty of an offence if without lawful authority he discloses any information, document or other article relating to security or intelligence which is or has been in his possession by virtue of his position as a member of any of those services or in the course of his work while the notification is or was in force. (2) The reference in [ss] (1) above to disclosing information relating to security or intelligence includes a reference to making any statement which purports to be a disclosure of such information or is intended to be taken by those to whom it is addressed as being such a disclosure. (3) A person who is or has been a Crown servant or government contractor is guilty of an offence if without lawful authority he makes a damaging disclosure of any information, document or other article relating to security or intelligence which is or has been in his possession by virtue of his position as such but otherwise than as mentioned in [ss] (1) above. (4) For the purposes of [ss] (3) above a disclosure is damaging if (a) it causes damage to the work of, or of any part of, the security and intelligence services; or (b) it is of information or a document or other article which is such that its unauthorised disclosure would be likely to cause such damage or which falls within a class or description of information, documents or articles the unauthorised disclosure of which would be likely to have that effect. (5) It is a defence for a person charged with an offence under this [s] to prove that at the time of the alleged offence he did not know, and had no reasonable cause to believe, that the information, document or article in question related to security or intelligence or, in the case of an offence under [ss] (3), that the disclosure would be damaging within the meaning of that [ss]. (6) Notification that a person is subject to [ss] (1) above shall be effected by a notice in writing served on him by a Minister of the Crown; and such a notice may be served if, in the Minister’s opinion, the work undertaken by the person in question is or includes work connected with the security and intelligence services and its nature is such that the interests of national security require that he should be subject to the provisions of that [ss]. (7) Subject to [ss] (8) below, a notification for the purposes of [ss] (1) above shall be in force for the period of [5] years beginning with the day on which it is served but may be renewed by further notices under [ss] (6) above for periods of [5] years at a time. (8) A notification for the purposes of [ss] (1) above may at any time be revoked by a further notice in writing served by the Minister on the person concerned; and the Minister shall serve such a further notice as soon as, in his opinion, the work undertaken by that person ceases to be such as is mentioned in [ss] (6) above. (9) In this [s] “*security or intelligence*” means the work of, or in support of, the security and intelligence services or any part of them, and references to information relating to security or intelligence include references to information held or transmitted by those services or by persons in support of, or of any part of, them.

S 2. **Defence.** (1) A person who is or has been a Crown servant or government contractor is guilty of an offence if without lawful authority he makes a damaging disclosure of any information, document or other article relating to defence which is or has been in his possession by virtue of his position as such. (2) For the purposes of [ss] (1) above a disclosure is damaging if (a) it damages the capability of, or of any part of, the armed

<sup>42</sup> There are anomalies in that the consent of the A-G is required in the case of some matters, but that of the DPP in others. It would better for the DPP only to be involved.

<sup>43</sup> For example, common wording (oft repeated in criminal legislation) is ‘*Any regulations under [ss] shall be made by [SI] subject to annulment in pursuance of a resolution of either House of Parliament.*’ See also ‘The power to make an order under this [s] is exercisable by [SI]. (5) No order may be made under this [s] unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.’

forces of the Crown to carry out their tasks or leads to loss of life or injury to members of those forces or serious damage to the equipment or installations of those forces; or (b) otherwise than as mentioned in [para] (a) above, it endangers the interests of the [UK] abroad, seriously obstructs the promotion or protection by the [UK] of those interests or endangers the safety of British citizens abroad; or (c) it is of information or of a document or article which is such that its unauthorised disclosure would be likely to have any of those effects. (3) It is a defence for a person charged with an offence under this [s] to prove that at the time of the alleged offence he did not know, and had no reasonable cause to believe, that the information, document or article in question related to defence or that its disclosure would be damaging within the meaning of [ss] (1) above. (4) In this [s] “*defence*” means (a) the size, shape, organisation, logistics, order of battle, deployment, operations, state of readiness and training of the armed forces of the Crown; (b) the weapons, stores or other equipment of those forces and the invention, development, production and operation of such equipment and research relating to it; (c) defence policy and strategy and military planning and intelligence; (d) plans and measures for the maintenance of essential supplies and services that are or would be needed in time of war.

**S 3. International relations.** (1) A person who is or has been a Crown servant or government contractor is guilty of an offence if without lawful authority he makes a damaging disclosure of (a) any information, document or other article relating to international relations; or (b) any confidential information, document or other article which was obtained from a State other than the [UK] or an international organisation, being information or a document or article which is or has been in his possession by virtue of his position as a Crown servant or government contractor. (2) For the purposes of [ss] (1) above a disclosure is damaging if (a) it endangers the interests of the [UK] abroad, seriously obstructs the promotion or protection by the [UK] of those interests or endangers the safety of British citizens abroad; or (b) it is of information or of a document or article which is such that its unauthorised disclosure would be likely to have any of those effects. (3) In the case of information or a document or article within [ss] (1)(b) above (a) the fact that it is confidential, or (b) its nature or contents, may be sufficient to establish for the purposes of [ss] (2)(b) above that the information, document or article is such that its unauthorised disclosure would be likely to have any of the effects there mentioned. (4) It is a defence for a person charged with an offence under this [s] to prove that at the time of the alleged offence he did not know, and had no reasonable cause to believe, that the information, document or article in question was such as is mentioned in [ss] (1) above or that its disclosure would be damaging within the meaning of that [ss]. (5) In this [s] “*international relations*” means the relations between States, between international organisations or between one or more States and one or more such organisations and includes any matter relating to a State other than the [UK] or to an international organisation which is capable of affecting the relations of the [UK] with another State or with an international organisation. (6) For the purposes of this [s] any information, document or article obtained from a State or organisation is confidential at any time while the terms on which it was obtained require it to be held in confidence or while the circumstances in which it was obtained make it reasonable for the State or organisation to expect that it would be so held.

**S 4. Crime and special investigation powers.** (1) A person who is or has been a Crown servant or government contractor is guilty of an offence if without lawful authority he discloses any information, document or other article to which this [s] applies and which is or has been in his possession by virtue of his position as such. (2) This [s] applies to any information, document or other article (a) the disclosure of which (i) results in the commission of an offence; or (ii) facilitates an escape from legal custody or the doing of any other act prejudicial to the safekeeping of persons in legal custody; or (iii) impedes the prevention or detection of offences or the apprehension or prosecution of suspected offenders; or (b) which is such that its unauthorised disclosure would be likely to have any of those effects. (3) This [s] also applies to (a) any information obtained by reason of the interception of any communication in obedience to a warrant issued under [s] 2 of the Interception of Communications Act 1985 or under the authority of an interception warrant under [s] 5 of the Regulation of Investigatory Powers Act 2000, any information relating to the obtaining of information by reason of any such interception and any document or other article which is or has been used or held for use in, or has been obtained by reason of, any such interception; (b) any information obtained by reason of action authorised by a warrant issued under [s] 3 of the Security Service Act 1989 or under [s] 5 of the Intelligence Services Act 1994 or by an authorisation given under [s] 7 of that Act, any information relating to the obtaining of information by reason of any such action and any document or other article which is or has been used or held for use in, or has been obtained by reason of, any such action. And (c) any information obtained under a warrant under Chapter 1 of Part 2 or Chapter 1 of Part 6 of the Investigatory Powers Act 2016, any information relating to the obtaining of information under such a warrant and any document or other article which is or has been used or held for use in, or has been obtained by reason of, the obtaining of information under such a warrant. (4) It is a defence for a person charged with an offence under this [s] in respect of a disclosure falling within [ss] (2)(a) above to prove that at the time of the alleged offence he did not know, and had no reasonable cause to believe, that the disclosure would have any of the effects there mentioned. (5) It is a defence for a person charged with an offence under this [s] in respect of any other disclosure to prove that at the time of the alleged offence he did not know, and had no reasonable cause to believe, that the information, document or article in question was information or a document or article to which this [s] applies. (6) In this section “*legal custody*” includes detention in pursuance of any enactment or any instrument made under an enactment.

**S 5. Information resulting from unauthorised disclosures or entrusted in confidence.** (1) [ss] (2) below applies where (a) any information, document or other article protected against disclosure by the foregoing provisions of this Act has come into a person’s possession as a result of having been (i) disclosed (whether to him or another) by a Crown servant or government contractor without lawful authority; or (ii) entrusted to him by a Crown servant or government contractor on terms requiring it to be held in confidence or in circumstances in which the Crown servant or government contractor could reasonably expect that it would be so held; or (iii) disclosed (whether to him or another) without lawful authority by a person to whom it was entrusted as mentioned in sub-[para] (ii) above; and (b) the disclosure without lawful authority of the information, document or article by the person into whose possession it has come is not an offence under any of those provisions. (2) Subject to [ss] (3) and (4) below, the person into whose possession the information, document or article has come is guilty of an offence if he discloses it without lawful authority knowing, or having reasonable cause to believe, that it is protected against disclosure by the foregoing provisions of this Act and that it has come into his possession as mentioned in [ss] (1) above. (3) In the case of information or a document or article protected against disclosure by

sections 1 to 3 above, a person does not commit an offence under [ss] (2) above unless (a) the disclosure by him is damaging; and (b) he makes it knowing, or having reasonable cause to believe, that it would be damaging; and the question whether a disclosure is damaging shall be determined for the purposes of this [ss] as it would be in relation to a disclosure of that information, document or article by a Crown servant in contravention of [s] 1(3), 2(1) or 3(1) above. (4) A person does not commit an offence under [ss] (2) above in respect of information or a document or other article which has come into his possession as a result of having been disclosed (a) as mentioned in [ss] (1)(a)(i) above by a government contractor; or (b) as mentioned in [ss] (1)(a)(iii) above, unless that disclosure was by a British citizen or took place in the [UK], in any of the Channel Islands or in the Isle of Man or a colony. [obs] (5) For the purposes of this [s] information or a document or article is protected against disclosure by the foregoing provisions of this Act if (a) it relates to security or intelligence, defence or international relations within the meaning of [s] 1, 2 or 3 above or is such as is mentioned in [s] 3(1)(b) above; or (b) it is information or a document or article to which [s] 4 above applies; and information or a document or article is protected against disclosure by sections 1 to 3 above if it falls within [para] (a) above. (6) A person is guilty of an offence if without lawful authority he discloses any information, document or other article which he knows, or has reasonable cause to believe, to have come into his possession as a result of a contravention of any of sections 1 to 4 of the National Security Act 2023.

**S 6. Information entrusted in confidence to other States or international organisations.** (1) This [s] applies where (a) any information, document or other article which (i) relates to security or intelligence, defence or international relations; and (ii) has been communicated in confidence by or on behalf of the [UK] to another State or to an international organisation, has come into a person's possession as a result of having been disclosed (whether to him or another) without the authority of that State or organisation or, in the case of an organisation, of a member of it; and (b) the disclosure without lawful authority of the information, document or article by the person into whose possession it has come is not an offence under any of the foregoing provisions of this Act. (2) Subject to [ss] (3) below, the person into whose possession the information, document or article has come is guilty of an offence if he makes a damaging disclosure of it knowing, or having reasonable cause to believe, that it is such as is mentioned in [ss] (1) above, that it has come into his possession as there mentioned and that its disclosure would be damaging. (3) A person does not commit an offence under [ss] (2) above if the information, document or article is disclosed by him with lawful authority or has previously been made available to the public with the authority of the State or organisation concerned or, in the case of an organisation, of a member of it. (4) For the purposes of this [s] "security or intelligence", "defence" and "international relations" have the same meaning as in sections 1, 2 and 3 above and the question whether a disclosure is damaging shall be determined as it would be in relation to a disclosure of the information, document or article in question by a Crown servant in contravention of [s] 1(3), 2(1) and 3(1) above. (5) For the purposes of this [s] information or a document or article is communicated in confidence if it is communicated on terms requiring it to be held in confidence or in circumstances in which the person communicating it could reasonably expect that it would be so held.

**S 7. Authorised disclosures.** (1) For the purposes of this Act a disclosure by (a) a Crown servant; or (b) a person, not being a Crown servant or government contractor, in whose case a notification for the purposes of [s] 1(1) above is in force, is made with lawful authority if, and only if, it is made in accordance with his official duty. (2) For the purposes of this Act a disclosure by a government contractor is made with lawful authority if, and only if, it is made (a) in accordance with an official authorisation; or (b) for the purposes of the functions by virtue of which he is a government contractor and without contravening an official restriction. (3) For the purposes of this Act a disclosure made by any other person is made with lawful authority if, and only if, it is made (a) to a Crown servant for the purposes of his functions as such; or (b) in accordance with an official authorisation. (4) It is a defence for a person charged with an offence under any of the foregoing provisions of this Act to prove that at the time of the alleged offence he believed that he had lawful authority to make the disclosure in question and had no reasonable cause to believe otherwise. (5) In this [s] "official authorisation" and "official restriction" mean, subject to [ss] (6) below, an authorisation or restriction duly given or imposed by a Crown servant or government contractor or by or on behalf of a prescribed body or a body of a prescribed class. (6) In relation to [s] 6 above "official authorisation" includes an authorisation duly given by or on behalf of the State or organisation concerned or, in the case of an organisation, a member of it.

**S 8. Safeguarding of information.** (1) Where a Crown servant or government contractor, by virtue of his position as such, has in his possession or under his control any document or other article which it would be an offence under any of the foregoing provisions of this Act for him to disclose without lawful authority he is guilty of an offence if (a) being a Crown servant, he retains the document or article contrary to his official duty; or (b) being a government contractor, he fails to comply with an official direction for the return or disposal of the document or article, or if he fails to take such care to prevent the unauthorised disclosure of the document or article as a person in his position may reasonably be expected to take. (2) It is a defence for a Crown servant charged with an offence under [ss] (1)(a) above to prove that at the time of the alleged offence he believed that he was acting in accordance with his official duty and had no reasonable cause to believe otherwise. (3) In [ss] (1) and (2) above references to a Crown servant include any person, not being a Crown servant or government contractor, in whose case a notification for the purposes of [s] 1(1) above is in force. (4) Where a person has in his possession or under his control any document or other article which it would be an offence under [s] 5 above for him to disclose without lawful authority, he is guilty of an offence if (a) he fails to comply with an official direction for its return or disposal; or (b) where he obtained it from a Crown servant or government contractor on terms requiring it to be held in confidence or in circumstances in which that servant or contractor could reasonably expect that it would be so held, he fails to take such care to prevent its unauthorised disclosure as a person in his position may reasonably be expected to take. (5) Where a person has in his possession or under his control any document or other article which it would be an offence under [s] 6 above for him to disclose without lawful authority, he is guilty of an offence if he fails to comply with an official direction for its return or disposal. (6) A person is guilty of an offence if he discloses any official information, document or other article which can be used for the purpose of obtaining access to any information, document or other article protected against disclosure by the foregoing provisions of this Act and the circumstances in which it is disclosed are such that it would be reasonable to expect that it might be used for that purpose without authority. (7) For the purposes of [ss] (6) above a person discloses information

or a document or article which is official if (a) he has or has had it in his possession by virtue of his position as a Crown servant or government contractor; or (b) he knows or has reasonable cause to believe that a Crown servant or government contractor has or has had it in his possession by virtue of his position as such. (8) [ss] (5) of [s] 5 above applies for the purposes of [ss] (6) above as it applies for the purposes of that [s] (9) In this [s] “official direction” means a direction duly given by a Crown servant or government contractor or by or on behalf of a prescribed body or a body of a prescribed class.

S 9. **Prosecutions.** (1) Subject to [ss] (2) below, no prosecution for an offence under this Act shall be instituted in [E&W] or in [NI] except by or with the consent of the [A-G] or, as the case may be, the Advocate General for [NI]. (2) [ss] (1) above does not apply to an offence in respect of any such information, document or article as is mentioned in [s] 4(2) above but no prosecution for such an offence shall be instituted in [E&W] or in [NI] except by or with the consent of the [DPP] or, as the case may be, the [DPP] for [NI]. \*<sup>44</sup>

S 10. **Penalties.** (1) A person guilty of an offence under any provision of this Act other than [s] 8(1), (4) or (5) shall be liable (a) on conviction on indictment, to imprisonment for a term not exceeding [2] years or a fine or both; (b) on summary conviction, to imprisonment for a term not exceeding [6] months or a fine not exceeding the statutory maximum or both. (2) A person guilty of an offence under [s] 8(1), (4) or (5) above shall be liable on summary conviction to imprisonment for a term not exceeding [3] months or a fine not exceeding level 5 on the standard scale or both.<sup>45</sup>

S 11. **Arrest, search and trial.** (3) [sch] 2 to the National Security Act 2023 (powers of entry, search and seizure) applies in relation to a relevant offence as it applies in relation to a relevant act (within the meaning given by [paras] 1 and 18 of that [sch]). (4) If it is necessary in the interests of national security, a court may exclude the public from any part of proceedings for a relevant offence, except the passing of sentence. (4A) In this [s] a “relevant offence” means an offence under any provision of this Act other than [s] 8(1), (4) or (5). (5) Proceedings for an offence under this Act may be taken in any place in the [UK]. \*

S 12. **“Crown servant” and “government contractor”.** (1) In this Act “Crown servant” means (a) a Minister of the Crown; (aa) a member of the Scottish Executive or a junior Scottish Minister; (ab) the First Minister for Wales, a Welsh Minister appointed under [s] 48 of the Government of Wales Act 2006, the Counsel General to the Welsh Assembly Government or a Deputy Welsh Minister; (b) a person appointed under section 8 of the [NI] Constitution Act 1973 (the [NI] Executive etc.); (c) any person employed in the civil service of the Crown, including [HMs] Diplomatic Service, [HMs] Overseas Civil Service, the civil service of [NI] and the [NI] Court Service; (d) any member of the naval, military or air forces of the Crown, including any person employed by an association established for the purposes of Part XI of the Reserve Forces Act 1996; (e) any [PO] and any other person employed or appointed in or for the purposes of any police force (including the Police Service of [NI] and the Police Service of [NI] Reserve) or an NCA special (within the meaning of Part 1 of the Crime and Courts Act 2013); (f) any person who is a member or employee of a prescribed body or a body of a prescribed class and either is prescribed for the purposes of this [para] or belongs to a prescribed class of members or employees of any such body; (g) any person who is the holder of a prescribed office or who is an employee of such a holder and either is prescribed for the purposes of this [para] or belongs to a prescribed class of such employees. (2) In this Act “government contractor” means, subject to [[ss] (3) below, any person who is not a Crown servant but who provides, or is employed in the provision of, goods or services (a) for the purposes of any Minister or person mentioned in [para] (a), (ab) or (b) of [ss] (1) above, of any office-holder in the Scottish Administration, of any of the services, forces or bodies mentioned in that [ss] or of the holder of any office prescribed under that [ss]; (b) under an agreement or arrangement certified by the [SS] as being one to which the government of a State other than the [UN] or an international organisation is a party or which is subordinate to, or made for the purposes of implementing, any such agreement or arrangement. (3) Where an employee or class of employees of any body, or of any holder of an office, is prescribed by an order made for the purposes of [ss] (1) above (a) any employee of that body, or of the holder of that office, who is not prescribed or is not within the prescribed class; and (b) any person who does not provide, or is not employed in the provision of, goods or services for the purposes of the performance of those functions of the body or the holder of the office in connection with which the employee or prescribed class of employees is engaged, shall not be a government contractor for the purposes of this Act. (4) In this [s] “office-holder in the Scottish Administration” has the same meaning as in [s] 126(7)(a) of the Scotland Act 1998. (4A) In this [s] the reference to a police force includes a reference to the [CNC]. (5) This Act shall apply to the following as it applies to persons falling within the definition of Crown servant (a) the First Minister and deputy First Minister in [NI]; and (b) [NI] Ministers and junior Ministers.

S 13. **Other interpretation provisions.** (1) In this Act “disclose” and “disclosure”, in relation to a document or other article, include parting with possession of it; “international organisation” means, subject to [ss] (2) and (3) below, an organisation of which only States are members and includes a reference to any organ of such an organisation; “prescribed” means prescribed by an order made by the [SS]; “State” includes the government of a State and any organ of its government and references to a State other than the [UK] include references to any territory outside the [UK]. (2) In [s] 12(2)(b) above the reference to an international organisation includes a reference to any such organisation whether or not one of which only States are members and includes a commercial organisation. (3) In determining for the purposes of [ss] (1) above whether only States are members of an organisation, any member which is itself an organisation of which only States are members, or which is an organ of such an organisation, shall be treated as a State.

S 14. **Orders.** (1) Any power of the [SS] under this Act to make orders shall be exercisable by [SI]. (2) No order shall be made by him for the purposes of [s] 7(5), 8(9) or 12 above unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament. (3) If,

<sup>44</sup> There should be a common section on this (as well as in respect of the consent of the DPP) since this applies to many crimes.

<sup>45</sup> This should be in a Table as with all crimes.

apart from the provisions of this [ss], the draft of an order under any of the provisions mentioned in [ss] (2) above would be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument it shall proceed in that House as if it were not such an instrument. <sup>\*\*46</sup>

S 15. **Acts done abroad and extent.** (1) Any act (a) done by a British citizen or Crown servant; or (b) done by any person in any of the Channel Islands or the Isle of Man or any *colony*, [obs] shall, if it would be an offence by that person under any provision of this Act other than [s] 8(1), (4) or (5) when done by him in the [UK], be an offence under that provision. (2) This Act extends to [NI]. (3) [HM] may by Order in Council provide that any provision of this Act shall extend, with such exceptions, adaptations and modifications as may be specified in the Order, to any of the Channel Islands or the Isle of Man or any *colony*. [obs]\*\*

#### **National Security Act 2023**

S 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 [UK], and (c) the foreign power condition is met in relation to the person's conduct (see [s 31]). (2) In this [s] "*protected information*" means any information, document or other article where, for the purpose of protecting the safety or interests of the [UK] (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) [ss 1] applies whether the person's conduct takes place in the [UK] or elsewhere. (4) A person who commits an offence under this [s] is liable on conviction on indictment to imprisonment for life or a fine (or both). (5) For the purposes of this [s] (a) a person retains protected information if the person retains it in their possession or under their control; (b) disclosure includes parting with possession.

S 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 [s 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) [ss 1] applies whether the person's conduct takes place in the [UK] or elsewhere (but see [ss 5]); (5) Conduct within [ss 1] which takes place wholly outside the [UK] 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 [UK] national; (b) an individual who lives in the [UK]; (c) a body incorporated under the law of a part of the [UK]; (d) an unincorporated association formed under the law of a part of the [UK]. (7) A "*[UK] national*" is an individual who is (a) a British citizen, a British overseas territory, a British National (Overseas) or a British Overseas citizen, (b) a person who under the British Nationality Act 1981 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 [s] is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine (or both). (9) For the purposes of this [s] (a) a person retains a trade secret if they retain it in their possession or under their control; (b) disclosure includes parting with possession.

S 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 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 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 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) "*UK-related activities*" means (a) activities taking place in the [UK]; (b) activities taking place outside the [UK] which are prejudicial to the safety or interests of the [UK]. (5) For the purposes of [ss (1) and (2)] it is not necessary to identify a particular foreign intelligence service. (6) ss [1 and 2] apply to conduct outside the [UK], but apply to conduct taking place wholly outside the [UK] 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). (7) In proceedings for an offence under this [s] 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 [UK] 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 [UK], 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 activities carried out in accordance with, an agreement or arrangement to which (i) the [UK] was a party, or (ii) any person acting for or on behalf of, or holding office under, the Crown was (in that capacity) a party. (8) A person is taken to have shown a matter mentioned in [s (7)] 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. (9) A person who commits an offence under this [s] is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine (or both). (10) In this [s] "*Crown employment*" means employment under or for the purposes of a government department 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

<sup>46</sup> There should be a standard provision on this since it is common to many crimes.

foreign power; the “*law of the [UK]*” includes the law of any part of the [UK]; “*lawyer*” has the meaning given by [para] 6(3) of [Sch] 15; “*legal activity*” has the meaning given by [para] 6(4) of [Sch] 15; “*UK person*” has the same meaning as in [s] 2.

**S 4. Entering etc a prohibited place for a purpose prejudicial to the UK.** (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 [UK]. (2) In [ss] (1)(a) a reference to inspecting a prohibited place includes (a) taking, or procuring the taking of, photos[], videos or other recordings of the prohibited place; (b) inspecting photos[], videos or other recordings of the prohibited place. (3) For the purposes of this [s], a person engages in conduct mentioned in [ss](1)(a) if the person does so in person or by electronic or remote means. (4) [ss] (1) applies whether the person’s conduct takes place in the [UK] or elsewhere. (5) A person who commits an offence under this [s] is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine (or both). (6) In this Part “*vehicle*” means any form of transport.

**S 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 [ss](1)(a) a reference to inspecting a prohibited place includes taking, or procuring the taking of, photos[], videos or other recordings of the prohibited place. (4) For the purposes of this [s], a person engages in conduct mentioned in [ss] (a) if the person does so in person or by electronic or remote means. (5) A person who commits an offence under this [s] is liable (a) on [SC] in [E&W], to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both); (b) on [SC] in Scotland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 [] (or both); (c) on summary conviction in [NI], to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 [] (or both).

**S 6. Powers of police officers in relation to a prohibited place** (1) A [PO] may order (a) a person not to engage, or to cease to engage, in conduct mentioned in [s] 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 [PO] 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 [PO] may not exercise a power under [ss] (1) or (2) unless the [PO] reasonably believes that exercising the power is necessary to protect the safety or interests of the [UK]. (4) A person commits an offence if the person fails to comply with an order imposed under [ss] (1). (5) A person who commits an offence under this [s] is liable on [SC] to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 [] (or both).

**S 7. Meaning of “prohibited place”** (1) In this Part “*prohibited place*” means (a) Crown land in the [UK] or the Sovereign Base Areas of Akrotiri and Dhekelia 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 [UK] or the Sovereign Base Areas of Akrotiri and Dhekelia 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 [UK] or the Sovereign Base Areas of Akrotiri and Dhekelia which is used for the purposes described in [ss] (2)(b) or (3)(b) (or both); (d) any land or building in the [UK] or the Sovereign Base Areas of Akrotiri and Dhekelia 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 [s] 8. (2) In [ss] (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) [UK] 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 [UK] in time of war. (3) In [ss] (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 [s] “*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 [HM] in right of the Crown or in right of His private estates; (b) an interest belonging to a [UK] government department or held in trust for [HM] for the purposes of a [UK] government department; “*Duchy interest*” means an interest belonging to [HM] 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 [UK], the Channel Islands, the Isle of Man or the British Overseas Territories; “*GCHQ*” has the meaning given by [s] 3(3) of the Intelligence Services Act 1994. (5) In [ss] (1) the reference to [HMs] private estates is to be construed in accordance with [s] 1 of the Crown Private Estates Act 1862.

**S 8. Power to designate additional sites as prohibited places.** (1) The [SS] may by regulations designate (a) land or a building situated in the [UK] or the Sovereign Base Areas of Akrotiri and Dhekelia, or (b) a vehicle, as a prohibited place. (2) The power in [ss] (1) may be exercised only if, having regard to the matters mentioned in [ss] (3), the [SS] reasonably considers it necessary to do so in order to protect the safety or interests of the [UK]. (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 [ss] (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 [s] “*building*” includes any part of a building.

**S 9. Power to designate a cordoned area to secure defence aircraft** (1) A constable may designate an area as a cordoned area. (2) A [PO] may designate an area under [ss] (1) only if the [PO] 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 [PO] making the designation must confirm it in writing as soon as is reasonably practicable. (4) A [PO] 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 [PO] of at least the rank of superintendent is informed. (5) An officer who is informed of a designation in accordance with [ss] (4)(b) must (a) confirm the designation or cancel it with effect from such time as the officer may direct, and (b) if the [PO] cancels the designation, make a written record of the cancellation and the reason for it. (6) A [PO] 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 [PO] considers appropriate.

**S 10. Duration of cordon.** (1) A designation under [s] 9 has effect, subject to [ss] (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 [ss] (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 [PO] may extend from time to time the period during which a designation has effect. (4) An extension under [ss] (3) must (a) be in writing, and (b) specify the additional period during which the designation is to have effect. (5) An extension under [ss] (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.

**S 11. Powers of police in relation to a cordoned area.** (1) A [PO] 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 [ss](1) a reference to inspecting a cordoned area includes taking or procuring the taking of photos[], videos or other recordings. (3) A [PO] 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 [ss](1). (5) It is a defence for a person charged with an offence under [ss](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 [ss](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 [ss](4) is liable on [SC] to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 [] (or both). (8) In this [s] “*cordoned area*” means an area designated as a cordoned area under [s] 9.

**S 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 [UK], and (d) the foreign power condition is met in relation to the person’s conduct (see [s] 31). (2) [Ss] (1) applies (a) whether the person’s conduct takes place in the [UK] or elsewhere; (b) whether the asset is in the [UK] or elsewhere. (3) In this [s] “*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 [s] is liable on conviction on indictment to imprisonment for life or a fine (or both).

**S 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, 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, 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, (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 [ss] (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) [Ss] (1) and (2) apply whether the person’s conduct takes place in the [UK] or elsewhere. (6) [Ss](3) applies whether *P*’s conduct or the prohibited conduct takes place in the [UK] or elsewhere. (7) A person who commits an offence under this [s] is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine (or both). (8) In this [s] “*interference effect*” has the meaning given by [s] 14; “*prohibited conduct*” has the meaning given by [s] 15.

**S 14. Foreign interference: meaning of “interference effect”.** (1) For the purposes of [s] 13 an “*interference effect*” means any of the following effects (a) interfering with the exercise by a particular person of a Convention right in the [UK], (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 [UK], or (f) prejudicing the safety or interests of the [UK]. (2) An effect may be an interference effect whether it relates to a specific instance of a matter mentioned in [ss] (1), or to the matter in general. (3) In [ss](1)(d) “*relevant political processes*” means (a) an election or referendum in the [UK], (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 Houses of Parliament, (ii) the [NI] Assembly, (iii) the Scottish Parliament, or (iv) Senedd Cymru, (acting in that capacity). (4) In [ss] (1)(d) “*political decisions*” means decisions of (a) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) or a [UK] government department, (b) a [NI] Minister, the First Minister in [NI], the deputy First Minister in [NI], a person appointed as a junior Minister under [s] 19 of the [NI] Act 1998, a [NI] department or the Executive Committee of the [NI] 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 [s] “*Convention rights*” has the meaning given by [s] 1 of the Human Rights Act 1998; the “*law of the [UK]*” includes the law of any part of the [UK]; “*local authority*” means (a) in England (i) a county council; (ii) a district council; (iii) a London borough council; (iv) a combined authority established under [s] 103 of the Local Democracy, Economic Development and Construction Act 2009; (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 [s] 2 of the Local Government *etc.* (Scotland) Act 1994; (d) in [NI], a district council; “*public functions*” means functions of a public nature (a) exercisable in the [UK], or (b) exercisable in a country or territory outside the [UK] by a person acting for or on behalf of, or holding office under, the Crown; “*UK registered political party*” means a political party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000.

S 15. **Foreign interference: meaning of “prohibited conduct”.** (1) Conduct is prohibited conduct for the purposes of [s] 13 if (a) it constitutes an offence, or (b) if it takes place in a country or territory outside the [UK], it would constitute an offence if it took place in any part of the [UK]. (2) Conduct is prohibited conduct for the purposes of [s] 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; (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 [s] 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 [s] “*interference effect*” has the meaning given by [s] 14.

S 16. **Foreign interference in elections.** (1) This [s] applies where (a) a person commits a relevant electoral offence on or after the day on which this [s] comes into force, and (b) the foreign power condition is met in relation to the conduct of the person which constitutes the offence (see [s] 31). (2) A “*relevant electoral offence*” is an offence listed in [Col] 1 of the table in Part 1 of [sch] 1 (“*the table*”). (3) The person is liable on conviction on indictment to imprisonment for a term not exceeding the specified maximum term or a fine (or both). (4) The specified maximum term is the term specified in [Col] 2 of the table in relation to the relevant electoral offence. (5) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of [ss] (1) to have been committed on the first of those days. (6) Part 2 of [sch] 1 amends provisions relating to relevant electoral offences.

S 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) [ss] (1) and (2) apply to conduct outside the [UK], but apply to conduct taking place wholly outside the [UK] only if (a) the material benefit is or was, or is to be, provided in or from the [UK], 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 [ss] (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 [ss] (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 [UK] 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 [UK], for the purposes of those functions, or (c) in accordance with an agreement or arrangement to which (i) the [UK] was 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 [ss] (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 [ss] (1) is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine (or both). (11) A person who commits an offence under [ss] (2) is liable on conviction on indictment to

imprisonment for a term not exceeding 10 years or a fine (or both). (12) The following terms have the same meaning as in s 3; “*Crown employment*”; “*financial benefit*”; “*foreign intelligence service*”; the “*law of the [UK]*”; “*UK person*”.

S 18. **Preparatory conduct.** (1) A person commits an offence if, with the intention of (a) committing acts to which this [s] applies, or (b) acts to which this [s] 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 [s] applies, or acts to which this [s] applies in general. (3) This [s] applies to (a) acts which constitute an offence under (i) [s] 1 (*obtaining or disclosing protected information*); (ii) [s] 2 (*obtaining or disclosing trade secrets*); (iii) [s] 4 (*entering etc. a prohibited place for a purpose prejudicial to the UK*); (iv) [s] 12 (*sabotage*); (b) acts within [ss] (4) in relation to which the foreign power condition is met. (4) Acts are within this [ss] if they (a) involve serious violence against a person in the [UK], (b) endanger the life of a person in the [UK], or (c) create a serious risk to the health or safety of the public, or a section of the public, in the [UK]. (5) [ss](1) applies whether the person’s conduct takes place in the [UK] or elsewhere. (6) A person who commits an offence under this [s] is liable on conviction on indictment to imprisonment for life or a fine (or both).

S 19. **Aggravating factor where foreign power condition met: [E&W]** (*amends*)

S 20. **Aggravating factor where foreign power condition met: [NI]** (1) This [s] applies where a court in [NI] is considering for the purposes of sentence the seriousness of an offence that (a) is committed on or after the day on which this [s] comes into force, and (b) is not an offence listed in [ss] (2). (2) Those offences are (a) an offence under this Act or an ancillary offence in relation to any such offence; (b) a relevant electoral offence (within the meaning given by [s] 16). (3) An “*ancillary offence*”, in relation to an offence, means any of the following (a) aiding, abetting, counselling or procuring the commission of the offence; (b) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to the offence; (c) attempting or conspiring to commit the offence. (4) For the purposes of this [s], an offence committed by a person under Part 2 of the Serious Crime Act 2007 is related to another offence if that other offence is the offence (or one of the offences) which the person intended or believed would be committed. (5) Where the foreign power condition is met in relation to the conduct that constitutes the offence, the court (a) must treat that fact as an aggravating factor, and (b) must state in open court that the offence is so aggravated. (6) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of [ss] (1) to have been committed on the first of those days. (7) In this [s] “*sentence*”, in relation to an offence, includes any order made by a court when dealing with a person in respect of the offence.

S 21. **Aggravating factor where foreign power condition met: Scotland** (1) This [s] applies where in Scotland, in relation to a relevant offence, it is (a) libelled in an indictment, and (b) proved, that the offence has been aggravated by reason of the foreign power condition being met in relation to the conduct that constitutes the offence. (2) Where this [s] applies, the court must take the aggravation into account in determining the appropriate sentence. (3) Where the sentence imposed by the court in respect of the offence is different from that which the court would have imposed if the offence had not been aggravated by reason of being an offence within [ss] (1), the court must state the extent of, and the reasons for, the difference. (4) Evidence from a single source is sufficient to prove that an offence has been aggravated by reason of the foreign power condition being met in relation to conduct which constitutes the offence. (5) A “*relevant offence*” is an offence that (a) is committed on or after the day on which this [s] comes into force, and (b) is not an offence listed in [ss] (6). (6) Those offences are (a) an offence under this Act or an ancillary offence in relation to any such offence; (b) a relevant electoral offence (within the meaning given by [s] 16). (7) An “*ancillary offence*”, in relation to an offence, means any of the following (a) being art and part in the commission of the offence; (b) inciting a person to commit the offence; (c) attempting or conspiring to commit the offence. (8) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of [ss] (5)(a) to have been committed on the first of those days.

S 22. **Aggravating factor where foreign power condition met: armed forces** (*amends*)

S 23. **Powers of search etc** [Sch] 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 [s] 33(3)(b) or (c).

S 24. **Disclosure orders.** [Sch] 3 makes provision for disclosure orders.

S 25. **Customer information orders.** [Sch] 4 makes provision for customer information orders.

S 26. **Account monitoring orders.** [Sch] 5 makes provision for account monitoring orders.

S 27. **Arrest without warrant.** (1) A [PO] may arrest without a warrant anyone who the constable reasonably suspects is, or has been, involved in foreign power threat activity. (2) [Sch] 6 makes provision about detention under [s]. (3) Subject to [ss] (5) to (8), a person detained under this [s] must be released (unless detained under any other power) not later than the end of the period of 48 hours beginning with (a) the time of the person’s arrest under this [s], or (b) if the person was being detained under a provision listed in [ss] (4) when arrested under this section, with the time when the person was detained under that provision. (4) Those provisions are (a) [s] 24 of the Police and Criminal Evidence Act 1984; (b) [Art] 26 of the Police and Criminal Evidence ([NI] Order 1989 (S.I. 1989/1341 (N.I. 12)); (c) [s] 41 of, and [Sch] 7 to, the Terrorism Act 2000; (d) [s] 1 of the Criminal Justice (Scotland) Act 2016 (asp 1); (e) Part 1 of [Sch] 3 to the Counter-Terrorism and Border Security Act 2019. (5) A person arrested under this [s] must be released if, on a review of the person’s detention under Part 5 of [Sch] 6, the review officer does not authorise continued detention. This [ss] does not apply if the person is detained in accordance with [ss] (6) or (7) or under any other power. (6) Where a [PO] intends to make an application for a warrant under [para] 37 of [Sch] 6 (warrant of further detention) to extend the period of a person’s detention, the person may be detained pending the making of the application. (7) Where an application has been made (a) under [para] 37 of [Sch] 6 for a warrant to extend the period of a person’s detention, or (b) under [para] 44 of that [Sch] to further extend the period of a person’s detention, the person may be detained pending the conclusion of proceedings on the application. (8) Where an application under [para]

37 or 44 of [Sch] 6 is granted in respect of a person's detention, the person may be detained, subject to [para] 45 of that [Sch] (conditions for detention), during the period specified in the warrant. (9) The refusal of an application in respect of a person's detention under [para] 37 or 44 of [Sch] 6 does not prevent the person's continued detention in accordance with [s]. (10) [ss] (11) applies where (a) a person is detained under this [s] in hospital, or (b) a person detained under this [s] is removed to hospital because the person needs medical treatment. (11) Where this [ss] applies (a) any time during which the person is being questioned in hospital or (where this [ss] applies by virtue of [ss] (10)(b)) on the way there or back for the purpose of obtaining relevant evidence is to be included in calculating any period which falls to be calculated for the purposes of this [s] or Part 6 of [Sch] 6, but (b) any other time when the person is in hospital or (where this [ss] applies by virtue of [ss] (10)(b)) on the way there or back is not to be included. (12) In [ss] (11) "relevant evidence" means, in relation to the detained person, evidence which indicates that the detained person is, or has been, involved in foreign power threat activity. (13) A person who has the powers of a constable in one part of the [UK] may exercise the power under [ss] (1) in any part of the [UK]. (14) In this [s] and [sch] 6 references to involvement in foreign power threat activity do not include involvement in such activity occurring before this [s] comes into force.<sup>47</sup>

S 28. **Use of reasonable force.** (1) A power conferred on a [PO] by virtue of this Part (a) is additional to powers which the constable has at common law or by virtue of any other enactment, and (b) is not to be taken as affecting those powers. (2) A constable may if necessary use reasonable force for the purpose of exercising a power conferred on the constable by virtue of this Part.\*<sup>48</sup>

S. 29. **Border security.** (amends). S 30. **Offences under Part 2 of the Serious Crime Act 2007.** (amends)

S 30. **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) [ss](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 [ss](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.

S. 32. **Meaning of "foreign power".** (1) 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) [ss](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 [s] "foreign country or territory" means a country or territory outside the [UK], 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.

S 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 [ss] (3); (b) conduct which facilitates (or is intended to facilitate) conduct falling within [para] (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 [para] (a). (2) It is immaterial whether the activity within [ss] (1) relates to specific acts or threats within [ss] (3), or to acts or threats within that [ss] in general. (3) References to acts or threats within this [ss] are to (a) acts which constitute an offence under (i) [s] 1 (obtaining or disclosing protected information); (ii) [s] 2 (obtaining or disclosing trade secrets); (iii) [s] 3 (assisting a foreign intelligence service); (iv) [s] 4 (entering etc. a prohibited place for a purpose prejudicial to the UK); (v) [s] 12 (sabotage); (vi) [s] 13 (foreign interference: general); (vii) [s] 17(1) (obtaining material benefits from a foreign intelligence service); (b) acts within [ss] (4) in relation to which the foreign power condition is met; (c) threats to carry out acts within [ss] (4), where the foreign power condition is met in relation to the threats. (4) Acts are within this [ss] 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.

S 34. **Interpretation.** (1) In this Part "conduct" includes omissions and statements; "enactment" includes (a) an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978); (b) an enactment comprised in, or in an instrument made under, a Measure or Act of Senedd Cymru; (c) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; (d) an

<sup>47</sup> This should be part of a PACE 1984 as amended.

<sup>48</sup> Ibid.

enactment comprised in, or in an instrument made under, [NI] legislation; (e) retained direct EU legislation; “foreign power” has the meaning given by [s] 32; “the foreign power condition” has the meaning given by [s] 31; “foreign power threat activity” and “involvement”, in relation to such activity, have the meaning given by [s] 33; “information” includes information about tactics, techniques and procedures; “the maximum term for summary offences” means (a) in relation to an offence committed before the time when [s] 281(5) of the Criminal Justice Act 2003 comes into force, 6 months; (b) in relation to an offence committed after that time, 51 weeks. (2) In this Part references to a part of the [UK] are references to (a) [E&W], (b) Scotland, or (c) [NI].

S. 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 [s] “body” means a body corporate, a partnership or an unincorporated association 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 association 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 [ss](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, [ss](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 [SS] may by regulations provide for the modification of any provision of this [s] in its application to a body corporate or unincorporated association formed or recognised under the law of a country or territory outside the [UK].* \*

S 36. **Offences committed outside the [UK].** (1) Where an offence under this Part may be committed by conduct taking place outside the [UK], 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 is formed or recognised under the law of a country or territory outside the [UK]. (2) [ss](1) is subject to sections 3(6) and 17(6) (commission of offences under sections 3 and 17 by conduct outside the [UK]). (3) Where an offence under this Part is committed outside the [UK] (a) proceedings for the offence may be taken at any place in the [UK], and (b) the offence may for all incidental purposes be treated as having been committed at any such place. (4) In the application of [ss](3) to Scotland, any such proceedings against a person may be taken (a) in any sheriff court district in which the person is apprehended or is in custody, or (b) in such sheriff court district as the Lord Advocate may determine. (5) “*Sheriff court district*” is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see [s] 307(1) of that Act).

S 37. **Consents to prosecutions.** (1) This [s] applies to offences under this Part, except offences under (a) [s] 5 (unauthorised entry to a prohibited place); (b) [s] 6 (prohibited place: failure to comply with order of [PO]) (c) [s] 11 (cordoned area: failure to comply with order of constable); (d) [sch] 2 (powers of entry, search and seizure); (e) [sch] 3 (disclosure orders); (f) [sch] 4 (customer information orders). (2) *Proceedings for an offence to which this [s] applies may be instituted (a) in [E&W], only with the consent of the [A-G]; (b) in [NI], only with the consent of the [A-G] for [NI].* \*

S 38. **Power to exclude the public from proceedings.** If it is necessary in the interests of national security, a court may exclude the public from (a) any part of proceedings for an offence under this Part, or (b) any part of proceedings relating to [s] 69A of the Sentencing Act 2020 (as inserted by [s] 19) or to [s] 20 or 21, except for the passing of sentence.

S 39. **Power to impose prevention and investigation measures.** (1) The [SS] may by notice (a “*Part 2 notice*”) impose specified prevention and investigation measures on an individual if conditions A to E in [s] 40 are met. (2) In this Part “*prevention and investigation measures*” means requirements, restrictions and other provision which may be made in relation to an individual by virtue of [sch] 7. (3) In this [s] and Part 1 of [sch] 7 “*specified*” means specified in the Part 2 notice. (4) The [SS] must publish factors that the [SS] considers are appropriate to take into account when deciding whether to impose restrictions on an individual by virtue of [para] 2 of [sch] 7 (travel measure).

S 40. **Conditions A to E.** (1) Condition A is that the [SS] reasonably believes that the individual is, or has been, involved in foreign power threat activity. (2) Condition B is that some or all of the foreign power threat activity in which the individual is, or has been, involved is new foreign power threat activity. (3) Condition C is that the [SS] reasonably considers that it is necessary, for purposes connected with protecting the [UN] from the risk of acts or threats within [s] 33(3), for prevention and investigation measures to be imposed on the individual. (4) Condition D is that the [SS] reasonably considers that it is necessary, for purposes connected with preventing or restricting the individual’s involvement in foreign power threat activity, for the prevention and investigation measures specified in the notice to be imposed on the individual. (5) Condition E is that (a) the court gives the [SS] permission under [s] 42, or (b) the [SS] reasonably considers that the urgency of the case requires prevention and investigation measures to be imposed without obtaining such permission. (6) In relation to prevention and investigation measures under [para] 1 of [sch] 7 (residence measure), conditions A, B and D (and [ss](7)) apply as if the references to foreign power threat activity were to foreign power threat activity which relates to acts or threats within [s] 33(3)(b) or (c). (7) In this [s] “*new foreign power threat activity*” means (a) if no Part 2 notice relating to the individual has ever been in force, foreign power threat activity occurring at any time; (b) if only one Part 2 notice relating to the individual has ever been in force, foreign power threat activity occurring after that notice came into force; (c) if two or more Part 2 notices relating to the individual have been in force, foreign power threat activity occurring after such a notice came into force most recently.

(8) In this [s] references to foreign power threat activity, and to an individual's involvement in such activity, include foreign power threat activity, and an individual's involvement in such activity, occurring before [s] 39 comes into force.

S 41. **[5] year limit for Part 2 notices.** (1) A Part 2 notice (a) comes into force when the notice is served on the individual or, if later, at the time specified for this purpose in the notice, and (b) is in force for the period of [1] year. (2) The [SS] may by notice extend a Part 2 notice for a period of [1] year beginning when the Part 2 notice would otherwise expire. (3) A Part 2 notice (a) may be extended under [ss](2) only if conditions A, C and D are met, and (b) may be so extended on up to [4] occasions. (4) This [s] is subject, in particular, to sections 49 (revocation and revival of Part 2 notices) and 50 (replacement of Part 2 notice that is quashed *etc.*).

S 42. **Prior permission of the court.** (1) This [s] applies if the [SS] (a) makes the relevant decisions in relation to an individual, and (b) makes an application to the court for permission to impose measures on the individual. (2) The application must set out a draft of the proposed Part 2 notice. (3) The function of the court on the application is (a) to determine whether the relevant decisions of the [SS] are obviously flawed, and (b) to determine whether to give permission to impose measures on the individual and (where applicable) whether to exercise the power of direction under [ss](9). (4) The court may consider the application (a) in the absence of the individual, (b) without the individual having been notified of the application, and (c) without the individual having been given an opportunity (if the individual was aware of the application) of making any representations to the court. (5) But that does not limit the matters about which rules of court may be made. (6) In determining the application, the court must apply the principles applicable on an application for judicial review. (7) In a case where the court determines that a decision of the [SS] that condition A, condition B or condition C is met is obviously flawed, the court may not give permission under this [s]. (8) In any other case, the court may give permission under this [s]. (9) If the court determines that the [SS's] decision that condition D is met is obviously flawed, the court may (in addition to giving permission under [ss](8)) give directions to the [SS] in relation to the measures to be imposed on the individual. (10) In this [s] "relevant decisions" means the decisions that the following conditions are met (a) condition A, (b) condition B, (c) condition C, and (d) condition D.

S 43. **Urgent cases: reference to the court etc.** [sch] 8 makes provision about references to the court in urgent cases.

S 44. **Directions hearing.** (1) This [s] applies if the court (a) gives permission under [s] 42 for measures to be imposed on an individual, or (b) confirms under [para] 4(3) of [sch] 8 (whether or not subject to [para] 4(2) of that [sch]) a Part 2 notice which imposes measures on an individual. (2) The court must, at the hearing where it gives the permission or confirms the notice, give directions for a further hearing (a "directions hearing") (a) which, unless the court otherwise directs (whether in those directions or subsequently), is to be held within the period of 7 days beginning with the relevant day, and (b) which the individual is to have the opportunity to attend. (3) In a case where this [s] applies because the court gives permission under [s] 42, directions given under [ss] (2) may not be served on the individual unless the Part 2 notice has been served on that individual. (4) At the directions hearing, the court must give directions for a further hearing (a "review hearing") in relation to the imposition of measures on the individual. (5) Directions under [ss] (4) must provide for the review hearing to be held as soon as reasonably practicable. (6) In this [s] "relevant day" means (a) in a case falling within [ss] (1)(a), the day on which the Part 2 notice imposing the measures is served on the individual; (b) in a case falling within [ss] (1)(b), the day on which the court confirms the Part 2 notice.

S 45. **Review hearing** (1) On a review hearing held in compliance with directions under [s] 44(4), the function of the court is to review the decisions of the [ss] that the relevant conditions were met and continue to be met. (2) In doing so, the court must apply the principles applicable on an application for judicial review. (3) The court (a) must discontinue the review hearing if the individual requests the court to do so, and (b) may discontinue the review hearing in any other circumstances. (4) The court may not discontinue the review hearing in accordance with [ss] (3)(b) without giving the [SS] and the individual the opportunity to make representations. (5) The court has the following powers (and only those powers) on a review hearing (a) power to quash the Part 2 notice; (b) power to quash measures specified in the Part 2 notice; (c) power to give directions to the [SS] for, or in relation to (i) the revocation of the Part 2 notice, or (ii) the variation of measures specified in the Part 2 notice. (6) If the court does not exercise any of its powers under [ss](5), the court must decide that the Part 2 notice is to continue in force. (7) If the court exercises a power under [ss](5)(b) or (c)(ii), the court must decide that the Part 2 notice is to continue in force subject to that exercise of that power. (8) In this [s] "relevant conditions" means (a) condition A, (b) condition B, (c) condition C, and (d) condition D.

S 46. **Criminal investigations into foreign power threat activity.** (1) The [SS] must consult the [CPO] of the appropriate police force about the matter mentioned in [ss] (2) before (a) making an application under [s]42 for permission to impose measures on an individual, or (b) imposing measures on an individual in a case to which [s]40(5)(b) applies (urgency of the case requires measures to be imposed without obtaining the permission of the court). (2) The matter is whether there is evidence available that could realistically be used for the purposes of prosecuting the individual for an offence (a) within [s]33(3)(a), or (b) relating to acts or threats within [s] 33(3)(b) or (c). (3) The "appropriate police force" means the police force (a) that is investigating the commission of any such offence by the individual, or (b) by which it appears to the [SS] that the commission of any such offence by the individual would fall to be investigated. (4) If the [SS] serves a Part 2 notice on an individual, the [SS] must inform the [CPO] of the appropriate police force (a) that the Part 2 notice has been served, and (b) that the [CPO] must act in accordance with the duty under [ss](5). (5) After being informed of the matters mentioned in [s](4), the chief officer must (a) secure that the investigation of the individual's conduct, with a view to a prosecution of the individual for an offence (i) within [s]33(3)(a), or (ii) relating to acts or threats within [s]33(3)(b) or (c), is kept under review throughout the period the Part 2 notice is in force, and (b) report to the [SS] on the review carried out under [para] (a). (6) The [CPO] must consult the relevant prosecuting authority before responding to consultation under [ss](1). (7) The chief officer must also, to the extent that the [CPO] considers it appropriate to do so, consult the relevant prosecuting authority in carrying out the duty under [ss](5)(a). (8) The "relevant prosecuting authority" is (a) in the case of offences that would be likely to be prosecuted in [E&W], the [DPP]; (b) in the case of offences that would be likely to be prosecuted in Scotland, the Lord Advocate; (c) in the case of offences that would be likely to be prosecuted in [NI], the [DPP] for [NI] (9) The duty to consult under [ss](1) or (6) may be satisfied by consultation that took place wholly or

partly before the passing of this Act. (10) In this [s] “*chief officer*” (a) in relation to a police force maintained for a police area in [E&W], means the [CPO] of that force; (b) in relation to the Police Service of Scotland, means the chief constable of that Service; (c) in relation to the Police Service of [NI], means the [CC] of that Service; (d) in relation to the [NCA], means the Director General of the [NCA]; “*police force*” means (a) a police force maintained for a police area in [E&W]; (b) the Police Service of Scotland; (c) the Police Service of [NI]; (d) the [NCA].

S 47. **Review of ongoing necessity.** During the period that a Part 2 notice is in force, the [SS] must keep under review whether conditions C and D are met.

S 48. **Variation of measures.** (1) The [SS] may by notice (a “*variation notice*”) vary measures specified in a Part 2 notice if (a) the variation consists of the relaxation or removal of measures, (b) the variation is made with the consent of the individual, or (c) the [SS] reasonably considers that the variation is necessary for purposes connected with preventing or restricting the individual’s involvement in foreign power threat activity. (2) The [SS] may by variation notice vary a relocation measure so as to substitute a different specified residence if the [SS] reasonably considers that (a) the variation is necessary for reasons connected with the efficient and effective use of resources in relation to the individual, and (b) the relocation measure (as varied) remains necessary for purposes connected with preventing or restricting the individual’s involvement in foreign power threat activity which relates to acts or threats within [s]33(3)(b) or (c). (3) A “*relocation measure*” is a measure under [para]1(2) of [sch] 7 which requires the individual to reside at a specified residence within [para] 1(3)(b) of that [sch] (requirement to reside at premises specified by [SS] other than individual’s own residence). (4) The individual to whom a Part 2 notice relates may make an application to the [SS] for the variation of measures specified in the notice. (5) The [SS] must consider an application made under [ss](4). (6) An application under [ss](4) must be made in writing. (7) The [SS] may by notice request the provision, within such period of time as the notice may specify, of further information from the individual in connection with an application under [ss](4). (8) The [SS] is not required to consider an application further unless any information requested under [ss](7) is provided in accordance with the notice mentioned in that [ss]. (9) A variation under [ss] (1) or (2) takes effect when the variation notice is served or, if later, at the time specified for this purpose in the variation notice. (10) The power under [ss] (1) or (2) is exercisable whether or not an application has been made under [ss](4). (11) In a case where a Part 2 notice (a) has expired as mentioned in [s]49(6)(a), or (b) has been revoked, the power under [ss](1) or (2) may (in particular) be exercised in relation to the Part 2 notice before any revival of the Part 2 notice under [s]49(6) so as to take effect at the time that the Part 2 notice comes back into force on its revival. (12) In such a case, the question of whether condition D is met is to be determined for the purposes of [s]49(6) by reference to the measures specified in the Part 2 notice as they would be after the exercise of the power under [ss](1) or (2). (13) [ss](2) does not limit the power under [ss] (1).

S 49. **Revocation and revival of Part 2 notices.** (1) The [SS] may by notice (a “*revocation notice*”) revoke a Part 2 notice at any time. (2) The revocation of a Part 2 notice takes effect when the revocation notice is served or, if different, at the time specified for this purpose in the revocation notice. (3) The individual to whom a Part 2 notice relates may make an application to the [SS] for the revocation of the Part 2 notice. (4) The [SS] must consider an application made under [ss](3). (5) The power under [ss](1) is exercisable whether or not an application has been made under [ss](3). (6) The [SS] may by notice (a “*revival notice*”) at any time revive a Part 2 notice which (a) has expired (i) without being extended under [s] 41(2), or (ii) having been extended under [s]41(2) on fewer than [4] occasions, or (b) has been revoked, if conditions A, C and D are met. (7) The power of revival may be exercised (a) under [ss] (6)(a) or (b) whether or not the Part 2 notice has previously been revoked and revived, and (b) under [ss](6)(b) whether or not the Part 2 notice has been extended under [s]41(2) (and regardless of how many times it has been so extended). (8) But the power of revival under [ss](6)(b) may not be exercised to revive a Part 2 notice which the [SS] was required to revoke by directions given by the court in relevant proceedings. (9) A Part 2 notice which is revived (a) comes back into force when the revival notice is served or, if later, at the time specified for this purpose in the revival notice, (b) is in force (i) for the period of [1] year (in a case where the revived notice had expired), or (ii) for the period of time for which the Part 2 notice would have continued in force if it had not been revoked (in a case where the revived notice had been revoked), and (c) is treated as having been extended under [s]41(2) on the same number of occasions (if any) as on which the revived notice had been so extended.

S 50. **Replacement of a Part 2 notice that is quashed etc** (1) This [s] applies if (a) a Part 2 notice, the extension of a Part 2 notice, or the revival of a Part 2 notice, is quashed in relevant proceedings, or (b) a Part 2 notice is revoked by the [SS] in compliance with directions given by the court in relevant proceedings. (2) The replacement Part 2 notice is to be in force for the period of time for which the overturned notice would have continued in force but for the quashing or revocation. (3) The replacement Part 2 notice is to be treated as having been extended under [s] 41(2) on the same number of occasions (if any) as on which the overturned notice had been so extended (including any extension that was quashed). (4) Foreign power threat activity is to be treated as new foreign power threat activity in relation to the imposition of measures by the replacement Part 2 notice if it was new foreign power threat activity in relation to the imposition of measures by the overturned notice. (5) Foreign power threat activity that occurs after the coming into force of the overturned notice does not cease to be new foreign power threat activity by virtue of the coming into force of the replacement Part 2 notice. (6) [ss](2) to (5) do not apply to the replacement notice if (a) some or all of the foreign power threat activity occurred after the overturned notice came into force, and (b) the [SS] determines that those subsections should not apply to that notice. (7) In this [s] “*new foreign power threat activity*” has the same meaning as in [s] 40; “*overturned notice*” means the Part 2 notice to which the quashing or revocation referred to in [ss](1) relates; “*replacement Part 2 notice*” means the first Part 2 notice to impose measures on the individual to whom the overturned notice relates after the quashing or revocation referred to in [ss] 1.

S 51. **Other provision relating to the quashing of Part 2 notice.** (1) A power in relevant proceedings to quash a Part 2 notice, the extension of a Part 2 notice, the revival of a Part 2 notice, or measures specified in a Part 2 notice, includes (a) in [E&W] or [NI], power to stay the quashing for a specified time, or pending an appeal or further appeal against the decision to quash; or (b) in Scotland, power to determine that the quashing is of no effect for a specified time or pending such an appeal or further appeal. (2) A decision in relevant proceedings to quash measures specified in a Part 2 notice, or (except as provided in [s] 50) a decision in relevant proceedings to quash, or to give directions to the [SS] in relation to,

a Part 2 notice, the extension of a Part 2 notice, or the revival of a Part 2 notice, does not prevent the [SS] (a) from exercising any power under this Act to impose measures (whether or not to the same or similar effect as measures to which the decision relates), or (b) from relying, in whole or in part, on any matters for the purpose of so exercising such a power (whether or not the matters were relied on in exercising powers under this Act in relation to measures or the Part 2 notice to which the decision relates). (3) [sch] 9 makes provision about appeals against convictions.

S 52. **Appeals.** (1) If the [SS] extends or revives a Part 2 notice (see [s] 41(2) or 49(6)) (a) the individual to whom the Part 2 notice relates may appeal to the court against the extension or revival, and (b) the function of the court on such an appeal is to review the [SS] decisions that conditions A, C and D were met and continue to be met. (2) If the [SS] varies measures specified in a Part 2 notice (and the variation does not consist of the relaxation or removal of measures) without the consent of the individual to whom the Part 2 notice relates (a) the individual may appeal to the court against the variation, and (b) the function of the court on such an appeal is to review the [SS] decisions that the variation was necessary, and continues to be necessary, for purposes connected with preventing or restricting involvement by the individual in foreign power threat activity. (3) If the individual to whom a Part 2 notice relates makes an application to the [SS] for the variation of measures specified in the Part 2 notice (see [s] 48(4)) (a) the individual may appeal to the court against any decision by the [SS] on the application, and (b) the function of the court on such an appeal is to review the [SS] decisions that the measures to which the application relates were necessary, and continue to be necessary, for purposes connected with preventing or restricting involvement by the individual in foreign power threat activity. (4) If the individual to whom a Part 2 notice relates makes an application to the [SS] for the revocation of the notice (see [s] 49(3)) (a) the individual may appeal to the court against any decision by the [SS] on the application, and (b) the function of the court on such an appeal is to review the [SS's] decisions that conditions A, C and D were met and continue to be met. (5) If the individual to whom a Part 2 notice relates makes an application to the [SS] for permission (a) the individual may appeal to the court against any decision by the [SS] on the application (including any decision about conditions to which permission is subject), and (b) the function of the court on such an appeal is to review the decision. (6) In determining the matters mentioned in [ss] (1) to (5) the court must apply the principles applicable on an application for judicial review. (7) The only powers of the court on an appeal under this [s] are (a) power to quash the extension or revival of the Part 2 notice; (b) power to quash measures specified in the Part 2 notice; (c) power to give directions to the [SS] for, or in relation to (i) the revocation of the Part 2 notice, or (ii) the variation of measures specified in the Part 2 notice; (d) power to give directions to the [SS] in relation to permission or conditions to which permission is subject. (8) If the court does not exercise any of its powers under [ss] (7), it must dismiss the appeal. (9) In this [s] “*permission*” means permission for the purposes of measures specified in a Part 2 notice (see, in particular, [para] 17 of [sch] 7).

S 53. **Jurisdiction in relation to decisions under this Part** (1) Decisions relating to Part 2 notices are not to be questioned in any legal proceedings other than (a) proceedings in the court, or (b) proceedings on appeal from such proceedings. (2) The court is the appropriate tribunal for the purposes of [s] 7 of the Human Rights Act 1998 in relation to proceedings all or any part of which call a decision relating to a Part 2 notice into question. (3) In this Part “*decision relating to a Part 2 notice*” means (a) a decision made by the [SS] in exercise or performance of any power or duty under any of sections 39 to 51 or under [sch] 7 or [sch] 8; (b) a decision made by the [SS] for the purposes of, or in connection with, the exercise or performance of any such power or duty; (c) a decision by a [PO] to give a direction by virtue of [para] 4 of [sch] 7 (*movement directions measure*) or [para] 11(1)(b) of that [sch] (*reporting measure*); (d) a decision by a polygraph operator to give a direction by virtue of [para] 12(1)(c) of [sch] 7; (e) a decision by a person to give a direction by virtue of [para] 15(2)(d) of [sch] 7 (*monitoring measure*).

S 54. **Proceedings relating to measures.** (1) No appeal lies from any determination of the court in relevant proceedings, except on a question of law. (2) No appeal by any person other than the [SS] lies from any determination (a) on an application for permission under [s] 42, or (b) on a reference under [sch] 8. (3) [sch] 10 makes provision about proceedings relating to measures.

S 55. **Reports on exercise of powers under this Part.** (1) The [SS] must (a) prepare a report about the exercise of the powers mentioned in [ss] (2) during each period of 3 months beginning with the month in which [s] 39 comes into force, and (b) lay a copy of each such report before Parliament. (2) The powers referred to in [ss] (1) are the powers of the [SS] under this Part (a) to impose measures on an individual by a Part 2 notice; (b) to extend a Part 2 notice under [s] 41(2); (c) to vary a Part 2 notice under [s] 48; (d) to revoke a Part 2 notice under [s] 49(1); (e) to revive a Part 2 notice under [s] 49(6). (3) The duty under [ss] (1) in relation to the preparation and laying of a report must be carried out as soon as reasonably practicable after the end of the 3 month period to which the report relates.

S 56. **Offence.** (1) An individual commits an offence if (a) a Part 2 notice is in force in relation to the individual, and (b) the individual contravenes without reasonable excuse any measure specified in the notice. (2) Where an individual (a) is subject to a measure specified under [para] 2 of [sch] 7 (a “*travel measure*”), and (b) leaves the [UK] or travels outside the [UK], [ss](1)(b) has effect, in relation to that act, with the omission of the words “*without reasonable excuse*”. (3) If the individual has the permission of the [SS] by virtue of [sch] 7 for an act which would, without that permission, contravene a measure specified in the Part 2 notice, the individual contravenes that measure by virtue of that act if the act is not in accordance with the terms of the permission. (4) An individual who commits an offence under [ss] (1) is liable (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or both); (b) on [SC] in [E&W], to imprisonment for a term not exceeding the general limit in a magistrates’ court or to a fine (or both); (c) on [SC] in [NI], to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum (or both); (d) on [SC] in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both). (5) Where an individual commits an offence under [ss] (1) by contravening a travel measure, [ss] (4)(a) has effect as if “10 years” were substituted for “5 years”. (6) Where an individual is convicted by or before a court of an offence under [ss] (1), it is not open to that court to make in respect of the offence (a) an order under [s] 80 of the Sentencing Code (conditional discharge), (b) an order under [s] 227A of the Criminal Procedure (Scotland) Act 1995 (*community payback orders*), or (c) an order under Article 4(1)(b) of the Criminal Justice ([NI]) Order 1996 (S.I. 1996/3160 (N.I. 24)) (*conditional discharge*).

S 57. **Powers of entry etc.** [sch] 11 makes provision about powers of entry, search, seizure and retention.

S 58. **Fingerprints and samples.** [sch] 12 makes provision about fingerprints and samples.

S 59. **Notices.** (1) In a case where the [SS] serves a Part 2 notice, a revival notice or an extension notice on an individual, the [SS] must, by a further notice, give the following information to the individual (a) the period for which the Part 2 notice will be in force, (b) the day on which the Part 2 notice comes, or came, into force, and (c) the day on which the Part 2 notice will expire, and, in the case of a revival or extension notice, “Part 2 notice” means the Part 2 notice which is revived or extended by that notice. (2) An individual is not bound by (a) a Part 2 notice, (b) a revival notice, or (c) a variation notice insofar as it gives notice of a variation that is neither a relaxation or removal of measures, nor a variation with the individual’s consent, unless the notice is served personally on the individual. (3) An individual is not bound by an extension notice unless the notice is (a) served personally on the individual, and (b) so served before the Part 2 notice to which it relates would otherwise expire. (4) Any of the following notices must be served on the individual to whom the notice relates (a) a revocation notice; (b) a variation notice insofar as [ss] (2)(c) does not apply to it; (c) a confirmation notice. (5) Any of the following notices may be proved by the production of a document purporting to be certified by the [SS] as a true copy of the notice (a) a Part 2 notice; (b) an extension notice; (c) a revocation notice; (d) a revival notice; (e) a variation notice; (f) a confirmation notice. (6) But that does not prevent the proof of such a notice in other ways. (7) In this [s] “*confirmation notice*” means a notice given under [ss] (1); “*extension notice*” means a notice under [s] 41(2); “*revival notice*” has the same meaning as in [s] 49(6); “*revocation notice*” has the same meaning as in [s] 49(1); “*variation notice*” has the same meaning as in [s] 48(1).

S 60. **Contracts** The [SS] may enter into such contracts and other arrangements with other persons as the [SS] considers appropriate for securing their assistance in connection with any monitoring, by electronic or other means, that the [SS] considers needs to be carried out in connection with measures specified in Part 2 notices.

S 61. **Legal aid in relation to Part 2 notices (amends)**

S 62. **Interpretation etc** (1) In this Part “*act*” and “*conduct*” include omissions and statements; “*condition A*”, “*condition B*”, “*condition C*”, “*condition D*” or “*condition E*” means that condition as set out in [s] 40; “*court*” means (a) in the case of proceedings relating to an individual whose principal place of residence is in Scotland, the Outer House of the Court of Session; (b) in the case of proceedings relating to an individual whose principal place of residence is in [NI], the High Court in [NI]; (c) in any other case, the High Court in [E&W]; “*decision relating to a Part 2 notice*” has the meaning given in [s] 53; “*enactment*” includes (a) an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978); (b) an enactment comprised in, or in an instrument made under, a Measure or Act of Senedd Cymru; (c) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; (d) an enactment comprised in, or in an instrument made under, [NI] legislation; (e) retained direct EU legislation; “*foreign power threat activity*” and “*involvement*” (in relation to such activity) have the same meaning as in Part 1 (see [s] 33); “*measures*” means prevention and investigation measures (which has the meaning given in [s] 39); “*notice*” means a notice in writing; “*Part 2 notice*” has the meaning given in [s] 39(1); “*relevant proceedings*” means (a) proceedings on an application for permission under [s] 42; (b) proceedings on a reference under [sch] 8; (c) proceedings on a directions hearing held in accordance with directions under [s] 44(2); (d) proceedings on a review hearing held in accordance with directions under [s] 44(4); (e) proceedings on an appeal under [s] 52; (f) proceedings by virtue of [s] 53(2); (g) proceedings on an application made by virtue of rules of court made under [para] of [sch] 10 (*application for order requiring anonymity*); (h) any other proceedings for questioning a decision relating to a Part 2 notice (including any claim for damages or other relief arising out of such a decision). (2) In a case where (a) a Part 2 notice has come into force in relation to an individual, and (b) by virtue of the coming into force of that Part 2 notice, foreign power threat activity which occurred before the coming into force of that notice has ceased to be new foreign power threat activity (within the meaning of [s] 40(7)) in relation to that individual for the purposes of that section, the [SS] is not prevented from taking account of that activity for the purposes of the continued imposition, or subsequent imposition, of measures on that individual. (3) For the purposes of the definition of “*new foreign power threat activity*” in [s] 40(7), if a Part 2 notice is revived under [s] 49(6), a reference to the notice coming into force is a reference to it coming into force by virtue of [s] 41(1) (and not to it coming back into force by virtue of [s] 49(9)). (4) For the purpose of determining what measures may be imposed on an individual, it is immaterial whether the involvement in foreign power threat activity to be prevented or restricted by the measures is connected with matters to which the [SS]’s belief for the purpose of condition A relates. This is subject to [s] 40(6). (5) A failure by the [SS] to consider an application by an individual for (a) the revocation of a Part 2 notice, or (b) the variation of measures specified in a Part 2 notice, is to be treated as a decision by the [SS] not to revoke, or not to vary, the Part 2 notice. (6) [ss] (2) to (5) apply for the purposes of this Part.

S 63. **Reviews: general.** (1) The [SS] must appoint a person (the “*independent reviewer*”) to review the operation of (a) Part 1, except [s] 30; (b) Part 2; (c) Schedule 3 to the Counter-Terrorism and Border Security Act 2019, except the functions of the Investigatory Powers Commissioner under Part 1 of that [sch]. (2) The independent reviewer (a) must carry out a review of the operation of those provisions for each calendar year (an “*annual review*”), and (b) may carry out such other reviews of the operation of any of those provisions as they consider appropriate. (3) An annual review must be completed as soon as reasonably practicable after the calendar year to which it relates. (4) The independent reviewer must, by 31 January in each calendar year, inform the [SS] what (if any) reviews under [ss] (2)(b) they intend to carry out in that year. (5) The independent reviewer must send to the [SS] a report on the outcome of each review carried out under this [s] as soon as reasonably practicable after completion of the review. (6) On receiving a report under this [s], the [SS] must lay before Parliament (a) the report (but not any material removed under [ss] (7)), and (b) a statement as to whether any material has been removed under that [ss]. (7) The [SS] may, after consulting the independent reviewer, remove from the report any material whose publication the [SS] thinks would be contrary to the public interest, or prejudicial to (a) national security, (b) the prevention or detection of crime, (c) the economic well-being of the [UK], or (d) the continued discharge of the functions of any public authority whose activities include activities that are subject to review by the independent reviewer. (8) “*Public authority*” means a public authority within the meaning of [s] 6 of the Human Rights Act 1998, other than a court or tribunal. (9) The [SS]



may pay to the independent reviewer (a) expenses incurred in carrying out the functions of the reviewer under this [s], and (b) such allowances as the [SS] determines.

S 64. **Reviews of detention under Part 1.** (1) An annual review under [s] 63(2)(a) must in particular consider compliance with the relevant requirements in relation to persons detained under [s] 27 by virtue of a warrant of further detention under Part 6 of [sch] 6. (2) The relevant requirements are requirements imposed (a) by or under Parts 1 to 5, and [para] 45, of [sch] 6; (b) by any relevant code of practice under [s] 66 of the Police and Criminal Evidence Act 1984 or [art] 65 of the Police and Criminal Evidence ([NI]) Order 1989 (S.I. 1989/1341 (N.I. 12)). (3) The independent reviewer must ensure that a review is carried out into any case where (a) a person is detained under [s] 27 by virtue of a warrant of further detention under Part 6 of [sch] 6, and (b) the period specified in that warrant is further extended under [para] 44 of that [sch] to a time that is more than 14 days after the person's arrest under [s] 27. (4) A review under [ss] (3) may be carried out by the independent reviewer or by another person. (5) The independent reviewer must ensure that a report on the outcome of a review under [ss] (3) is sent to the [SS] as soon as reasonably practicable after completion of the review. (6) [s] 63(6) to (8) applies to a report of a review under [ss] (3). (7) The expenses mentioned in [s] 63(9) include any expenses incurred by the independent reviewer in ensuring that another person carries out, and reports on, a review under [ss] (3). (8) "Independent reviewer" has the same meaning as in [s] 63.

S 65. **Requirement to register foreign activity arrangements.** (1) A "foreign activity arrangement" is an agreement or arrangement between a person ("P") and a specified person pursuant to which the specified person directs P (a) to carry out relevant activities in the [UK], or (b) to arrange for relevant activities to be carried out in the [UK]. (2) In this [s] "relevant activities" (a) if regulations under [ss] (3) apply in relation to the specified person, has the meaning given by the regulations, and (b) otherwise, means all activities. (3) The [SS] may by regulations make provision about activities which are relevant activities for the purposes of this [s], either in relation to all specified persons or in relation to such specified persons as the regulations may provide. (4) Where P makes a foreign activity arrangement, P must register the arrangement with the [SS] before the end of the period of 10 days beginning with the day on which P makes the arrangement. (5) P commits an offence if P (a) fails to comply with [ss] (4), and (b) knows, or having regard to other matters known to them ought reasonably to know, that the arrangement in question is a foreign activity arrangement.

S 66. **Meaning of "specified person".** (1) "Specified person" means (a) a foreign power specified by the [SS] in regulations; (b) a person, other than a foreign power, specified by the [SS] in regulations. (2) The regulations may specify a person other than a foreign power only if (a) the person is not an individual, and (b) the [SS] reasonably believes the person is controlled by a foreign power. (3) [sch] 13 makes provision about when a person is controlled by a foreign power. (4) The [SS] may make regulations specifying a foreign power or a person other than a foreign power only if the [SS] considers it reasonably necessary to do so to protect the safety or interests of the [UK]. (5) Regulations specifying a foreign power or a person other than a foreign power may provide for [s] 65(4) to apply, with modifications specified in the regulations, in relation to a foreign activity arrangement made with the specified person before the regulations come into force.

S 67. **Offence of carrying out etc relevant activities pursuant to unregistered foreign activity arrangement.** (1) This [s] applies where a person ("P") makes a foreign activity arrangement required to be registered under [s] 65(4). (2) P commits an offence if (a) P carries out a relevant activity, or arranges for a relevant activity to be carried out, in the [UK] pursuant to the arrangement, (b) the arrangement is not registered, and (c) P knows, or having regard to other matters known to them ought reasonably to know, that they are acting pursuant to a foreign activity arrangement. (3) A person other than P commits an offence if (a) the person carries out a relevant activity, or arranges for a relevant activity to be carried out, in the [UK] pursuant to the arrangement, (b) the arrangement is not registered, and (c) the person knows, or having regard to other matters known to them ought reasonably to know, that they are acting pursuant to a foreign activity arrangement. (4) In proceedings for an offence under [ss] (3) it is a defence to show that the person (a) took all steps reasonably practicable to determine whether the arrangement was registered, and (b) reasonably believed that the arrangement was registered. (5) A person is taken to have shown a matter mentioned in [ss] (4) 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. (6) In this [s] "relevant activity" has the same meaning as in [s] 65.

S 68. **Requirement to register relevant activities of specified persons.** (1) A specified person who is not a foreign power must not carry out relevant activities in the [UK] unless the activities are registered with the [SS] by the specified person. (2) A person who holds office in or under, or is an employee or other member of staff of, a specified person who is not a foreign power, must not carry out relevant activities in the [UK] in that capacity unless the activities are registered with the [SS] by the specified person. (3) A person who holds office in or under, or is an employee or other member of staff of, a specified person who is a foreign power must not carry out relevant activities in the [UK] in that capacity if or to the extent that (a) the person makes a misrepresentation about their activities or the capacity in which they act (whether generally or to a particular person), and (b) the activities are not registered with the [SS] by the specified person. (4) In this [s] "relevant activities" (a) if regulations under [ss] (5) apply in relation to the specified person, has the meaning given by the regulations, and (b) otherwise, means all activities. (5) The [SS] may by regulations make provision about activities which are relevant activities for the purposes of this [s], either in relation to all specified persons or in relation to such specified persons as the regulations may provide. (6) A misrepresentation is a representation that a reasonable person would consider to be false or misleading in a material way. (7) A misrepresentation may be made by making a statement or by any other kind of conduct (including an omission), and may be express or implied. (8) A misrepresentation may in particular include (a) a misrepresentation as to the 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. (9) A person who breaches a prohibition in [ss] (1) or (2) commits an offence. (10) A person who breaches a prohibition in [ss] (3) commits an offence if the person knows, or having regard to other matters known to them ought reasonably to know, that [para] (a) of that [ss] applies. (11) In proceedings for an offence under [ss] (9) or (10) it is a defence to show that the person (a) took all steps reasonably practicable to determine whether the activities were registered, and (b) reasonably believed that the activities were registered. (12) A

person is taken to have shown a matter mentioned in [ss] (11) 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.

S 69. **Requirement to register foreign influence arrangements.** (1) A “foreign influence arrangement” is an agreement or arrangement between a person (“P”) and a foreign power pursuant to which the foreign power directs P (a) to carry out political influence activities in the [UK], or (b) to arrange for such activities to be carried out in the [UK]. (2) Where the foreign power is a specified person, the arrangement is not a foreign influence arrangement to the extent that it relates to political influence activities that are relevant activities for the purposes of [s] 65. (3) Where P makes a foreign influence arrangement, P must register the arrangement with the [SS] before the end of the period of 28 days beginning with the day on which P makes the arrangement. (4) [ss] (3) applies in relation to a foreign influence arrangement which is made before, and which continues to have effect on, the day on which this [s] comes into force as if, for the words from “28” to the end, there were substituted “3 months beginning with the day on which this [s] comes into force.” (5) P commits an offence if P (a) fails to comply with [ss] (3), and (b) knows that the arrangement in question is a foreign influence arrangement.

S 70. **Meaning of “political influence activity”.** (1) An activity is a “political influence activity” if (a) it is within [ss] (2), and (b) the purpose, or one of the purposes, for which it is carried out is the purpose of influencing a matter or person within [ss] (3). (2) The activities within this subsection are (a) making any communication to a person listed in [sch] 14; (b) making a public communication, except where it is reasonably clear from the communication that it is made by or at the direction of the foreign power; (c) distributing money, goods or services to UK persons. (3) The matters and persons within this [ss] are (a) an election or referendum in the [UK], (b) a decision of (i) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) or a [UK] government department, (ii) a [NI] Minister, the First Minister in [NI], the deputy First Minister in [NI] a person appointed as a junior Minister under [s] 19 of the [NI] Act 1998, a [NI] department or the Executive Committee of the Northern Ireland Assembly, (iii) the Scottish Ministers or the First Minister for Scotland, or (iv) the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, (c) the proceedings of a UK registered political party, or (d) a Member of either House of Parliament, the [NI] Assembly, the Scottish Parliament or Senedd Cymru (acting in that capacity). (4) For the purposes of [ss] (2)(b) a person makes a public communication if the person (a) publishes or disseminates information, a document or other article, or (b) produces information, a document or other article for publication or dissemination. (5) In this [s] “UK person” has the same meaning as in [s] 2; “UK registered political party” means a political party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000.

S 71. **Offence of carrying out etc political influence activities pursuant to unregistered foreign influence arrangement.** (1) This [s] applies where a person (“P”) makes a foreign influence arrangement required to be registered under [s] 69(3). (2) P commits an offence if (a) after the end of the registration period P carries out a political influence activity, or arranges for a political influence activity to be carried out, in the [UK] pursuant to the arrangement, (b) the arrangement is not registered, and (c) P knows, or having regard to other matters known to them ought reasonably to know, that they are acting pursuant to a foreign influence arrangement. (3) A person other than P commits an offence if (a) after the end of the registration period the person carries out a political influence activity, or arranges for a political influence activity to be carried out, in the [UK] pursuant to the arrangement, (b) the arrangement is not registered, and (c) the person knows, or having regard to other matters known to them ought reasonably to know, that they are acting pursuant to a foreign influence arrangement. (4) In this [s] the “registration period” means the period before the end of which P must register the arrangement (see [s] 69(3) and (4)). (5) In proceedings for an offence under [ss] (3) it is a defence to show that the person (a) took all steps reasonably practicable to determine whether the arrangement was registered, and (b) reasonably believed that the arrangement was registered. (6) A person is taken to have shown a matter mentioned in [ss] (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.

S 72. **Requirement to register political influence activities of foreign powers** (1) A person who holds office in or under, or is an employee or other member of staff of, a foreign power must not carry out political influence activities in the [UK] in that capacity if or to the extent that (a) the person makes a misrepresentation about their activities or the capacity in which they act (whether generally or to a particular person), and (b) the activities are not registered with the [SS] by the foreign power. (2) Where the foreign power is a specified person, the prohibition in [SS] (1) does not apply to the extent that the political influence activities are relevant activities for the purposes of [s] 68. (3) A misrepresentation is a representation that a reasonable person would consider to be false or misleading in a material way. (4) A misrepresentation may be made by making a statement or by any other kind of conduct (including an omission), and may be express or implied. (5) A misrepresentation may in particular include (a) a misrepresentation as to the 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. (6) A person who breaches a prohibition in [ss] (1) commits an offence if the person knows, or having regard to other matters known to them ought reasonably to know, that [para] (a) of that [ss] applies. (7) In proceedings for an offence under [ss] (6) it is a defence to show that the person (a) took all steps reasonably practicable to determine whether the activities were registered, and (b) reasonably believed that the activities were registered. (8) A person is taken to have shown a matter mentioned in [ss] (7) 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.

S 73. **Exemptions.** [sch] 15 makes provision in relation to exemptions.

S 74. **Registration information.** (1) The [SS] may by regulations make provision about the information a person is required to provide to the [SS] when registering (a) a foreign activity arrangement under [s] 65, (b) a relevant activity under [s] 68, (c) a foreign influence arrangement under [s] 69, or (d) a political influence activity under [s] 72. (2) Regulations under [ss] (1) may, in particular, require the person to provide information about any arrangements made by the person pursuant to the arrangement or activity which is required to be registered.

(3) Regulations under [ss] (1)(c) may, in particular, require the person to provide information about any political influence activities carried out, or arranged to be carried out, during the registration period by any person pursuant to the arrangement which is required to be registered.

(4) In [ss] (3) “*registration period*” has the same meaning as in [s] 71. (5) Where there is a material change to any information provided to the [SS] under [s] or [s] 75 in relation to a registered arrangement or a registered activity, the person who registered the arrangement or activity must inform the [SS] of the change before the end of the period of 14 days beginning with the day on which the change takes effect. (6) The [SS] (a) may by regulations make provision about the information to be provided to the [SS] under [ss] (5), (b) may issue guidance about what may or may not constitute a material change. (7) The provision which may be made by regulations under this [s] includes provision about the form in which information is to be provided. (8) A person who fails to comply with [ss] (5) commits an offence if, as a result of the failure, the information provided to the [SS] in relation to the registered arrangement or registered activity is false, inaccurate or misleading in a material way.

**S 75. Information notices.** (1) The [SS] may give an information notice to (a) a person who is a party to a foreign activity arrangement registered under [s] 65; (b) a person the [SS] reasonably believes to be a party to a foreign activity arrangement which is required to be, but is not, registered under that [s]; (c) a person the [SS] reasonably believes to be carrying out relevant activities, or arranging for relevant activities to be carried out, in the [UK] pursuant to a foreign activity arrangement within [para] (a) or (b); (d) a person who has registered relevant activities under [s] 68; (e) a person the [SS] reasonably believes to be carrying out relevant activities registered under that [s]; (f) a person the [the SS] reasonably believes to be carrying out relevant activities in breach of a prohibition in that [s]. (2) The [SS] may give an information notice to (a) a person who is a party to a foreign influence arrangement registered under [s] 69; (b) a person the [SS] reasonably believes to be a party to a foreign influence arrangement which is required to be, but is not, registered under that [s]; (c) a person the [SS] reasonably believes to be carrying out political influence activities, or arranging for political influence activities to be carried out, in the [UK] pursuant to a foreign influence arrangement within [para] (a) or (b); (d) a person who has registered political influence activities under [s] 72; (e) a person the [SS] reasonably believes to be carrying out political influence activities registered under that [s]; (f) a person the [SS] reasonably believes to be carrying out political influence activities in breach of a prohibition in that [s]. (3) An information notice is a notice requiring the person to whom it is given to supply the information specified in the notice. (4) An information notice may only specify information which the [SS] may be relevant to an arrangement or activity within [ss] (1) or (2). (5) An information notice must (a) specify the form in which the information must be supplied, and (b) specify the date by which the information must be supplied. (6) Where an information notice has been given to a person, the [SS] may cancel it by giving written notice to that effect to the person. (7) The [SS] may by regulations make provision about (a) the minimum period between the date on which an information notice is given and the date specified under [ss] (5)(b); (b) other matters which may be specified in an information notice; (c) the cancellation of information notices. (8) A person commits an offence if, without reasonable excuse, the person fails to comply with an information notice. (9) The [SS] may not give an information notice to a foreign power.

**S 76. Confidential material.** (1) Nothing in this Part is to be taken to require any person to disclose any information that the person is entitled to refuse to disclose in legal proceedings on grounds of legal professional privilege (in Scotland, confidentiality of communications). (2) Nothing in this Part is to be taken to require any person to disclose confidential journalistic material or to identify or confirm a source of journalistic information. (3) In this [s] “*confidential journalistic material*” has the same meaning as in [s] 264 of the Investigatory Powers Act 2016; “*source of journalistic information*” has the same meaning as in [s] 263 of that Act.

**S 77. Offence of providing false information.** (1) A person commits an offence if (a) the person provides information to the [SS] under [s] 74 or 75 in connection with a foreign activity arrangement, and (b) the information is false, inaccurate or misleading in a material way. (2) A person commits an offence if (a) the person provides information to the [SS] under [s] 74 or 75 in connection with a relevant activity which is required to be registered under [s] 68, and (b) the information is false, inaccurate or misleading in a material way. (3) A person commits an offence if (a) the person provides information to the [SS] under [s] 74 or 75 in connection with a foreign influence arrangement, (b) the information is false, inaccurate or misleading in a material way, and (c) the person knows, or having regard to other matters known to them ought reasonably to know, that the information is false, inaccurate or misleading in a material way. (4) A person commits an offence if (a) the person provides information to the [SS] under [s] 74 or 75 in connection with a political influence activity which is required to be registered under [s] 72, (b) the information is false, inaccurate or misleading in a material way, and (c) the person knows, or having regard to other matters known to them ought reasonably to know, that the information is false, inaccurate or misleading in a material way.

**S 78. Offence of carrying out activities under arrangements tainted by false information.** (1) A person commits an offence if (a) the person carries out a relevant activity, or arranges for a relevant activity to be carried out, in the [UK] pursuant to a foreign activity arrangement required to be registered under [s] 65(4), (b) information provided to the [SS] under [s] 74 or 75 in connection with the arrangement, whether by the person or by another person, is false, inaccurate or misleading in a material way, and (c) the person knows, or having regard to other matters known to them ought reasonably to know, that the facts are as mentioned in [para] (b). (2) A person commits an offence if (a) the person carries out a political influence activity, or arranges for a political influence activity to be carried out, in the [UK] pursuant to a foreign influence arrangement required to be registered under [s] 69(3), (b) information provided to the [SS] under [s] 74 or 75 in connection with the arrangement, whether by the person or by another person, is false, inaccurate or misleading in a material way, and (c) the person knows, or having regard to other matters known to them ought reasonably to know, that the facts are as mentioned in [para] (b).

**S 79. Publication and disclosure of information.** (1) The [SS] may by regulations make provision about (a) publication of information provided to the [Ss] under [s] 74 or 75; (b) the disclosure of information provided to the [SS] under either of those sections. (2) The power under [s] (1)(a) includes in particular power to make provision about a description of information or material which is not to be published.

**S 80. Offences: penalties.** (1) A person who commits a foreign activity offence is liable (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or both); (b) on [SC] in [E&W], to imprisonment for a term not exceeding the general limit in a magistrates’ court or to a fine (or both); (c) on [SC] in [NI], to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum (or both); (d) on [SC] in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the

statutory maximum (or both). (2) “Foreign activity offence” means (a) an offence under [s] 65(5); (b) an offence under [s] 67; (c) an offence under [s] 68(9) or (10); (d) an offence under [s] 74(8) committed in relation to a foreign activity arrangement registered under [s] 65 or a relevant activity registered under [s] 68; (e) an offence under [s] 75(8) committed in relation to an information notice given under [s] 75(1); (f) an offence under [s] 77(1) or (2); (g) an offence under [s] 78(1). (3) A person who commits a foreign influence offence is liable (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine (or both); (b) on [SC] in [E&W], to imprisonment for a term not exceeding the general limit in a magistrates’ court or to a fine (or both); (c) on [SC] in [NI], to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum (or both); (d) on [SC] in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both). (4) “Foreign influence offence” means (a) an offence under [s] 69(5); (b) an offence under [s] 71; (c) an offence under [s] 72(6); (d) an offence under [s] 74(8) committed in relation to a foreign influence arrangement registered under [s] 69 or a political influence activity registered under [s] 72; (e) an offence under [s] 75(8) committed in relation to an information notice given under [s] 75(2); (f) an offence under [s] 77(3) or (4); (g) an offence under [s] 78(2).

S 81. **Offences: supplementary provision.** (1) [s] 35 (*offences by body corporate etc*) applies in relation to offences under this Part as it applies in relation to offences under Part 1. (2) [s] 36(1) and (3) to (5) (*offences committed outside the [UK]*) applies in relation to offences under this Part as it applies in relation to offences under Part 1. (3) If it is necessary in the interests of national security, a court may exclude the public from any part of proceedings for an offence under this Part, except for the passing of sentence.

S 82. **Annual report.** (1) The [SS] must, as soon as is practicable after the end of each relevant period (a) prepare a report in relation to that period, and (b) lay a copy of the report before Parliament. (2) The report must provide details of (a) the total number of arrangements registered with the [SS] under [s] 65 or 69, (b) the number of arrangements registered with the [SS] under [s] 65 or 69 during the relevant period, (c) the total number of specified persons and foreign powers who have registered activities with the [SS] under [s] 68 or 72, (d) the number of specified persons and foreign powers who have registered activities with the [SS] under [s] 68 or 72 during the relevant period, (e) the number of information notices issued under [s] 75 during the relevant period, (f) the number of persons charged with an offence under this Part during the relevant period, and (g) the number of persons convicted of an offence under this Part during the relevant period. (3) “Relevant period” means (a) the period of 12 months beginning with the day on which this [s] comes into force, and (b) each subsequent period of 12 months.

S 83. **Interpretation.** (1) In this Part “foreign activity arrangement” has the meaning given by [s] 65; “foreign influence arrangement” has the meaning given by [s] 69; “foreign power” has the same meaning as in Part 1 (see [s] 32), subject to [ss] (2); “political influence activity” has the meaning given by [s] 70; “registered activity” means an activity registered with the [SS] under [s] 68 or 72; “registered arrangement” means an arrangement registered with the [SS] under [s] 65 or 69; “specified person” has the meaning given by [s] 66. (2) For the purposes of this Part references in [s] 32 to a foreign State, or a foreign country or territory, do not include the Republic of Ireland. (3) For the purposes of this Part references to an “arrangement” do not include an arrangement between a person (“P”) and (a) a person who holds office in or under, or is an employee or other member of staff of, P (acting in that capacity), or (b) a person the [SS] reasonably considers to be exercising functions on behalf of P as if the person were within [para] (a).

S 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 [s] comes into force, (b) are brought against the Crown on any grounds (unless they are brought under [s] 7(1)(a) of the Human Rights Act 1998), and (c) relate to national security. (2) For the purposes of this [s] (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 Act 2000, or the use of similar powers overseas in the interests of national security; (ii) the activities of the intelligence services in the [UK] or overseas, or the activities of similar services overseas; (iii) investigations or other activities in connection with preventing the commission of terrorism offences or other involvement in terrorism-related activity in the [UK] or overseas.

S 85. **Duty to consider reduction in damages payable by the Crown.** (1) This [s] 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 [ss] (3) (the “national security factors”), and (d) the court has not refused the application. (2) Where this [s] 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 (ii) has a connection with the conduct of the Crown complained of in the proceedings, and (b) if the claimant has committed such wrongdoing to the extent of that wrongdoing and of its connection with the conduct of the Crown, and (ii) the matters mentioned in [ss] (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 overseas, or (ii) the conduct having been carried out in conjunction with a third party. (5) Where the court would (but for this [ss]) 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 [s] 8 of the Human Rights Act 1998 (judicial remedies). (7) Nothing in this [s] (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.

S 86. **[SI] 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 (or, in Scotland, before final judgment in the proceedings within the meaning given by [s] 136 of the *Courts Reform (Scotland) Act 2014* (asp 18)), 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.

S 87. **[ss] 84 to 86: interpretation.** In sections 84 to 86 and this [s] "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 [GCHQ]; "involvement in terrorism-related activity" has the same meaning as in the Terrorism Prevention and Investigation Measures Act 2011 (see [s] 4 of that Act); "national security factors" means the factors set out for consideration in [s] 85(3); "national security proceedings" has the meaning given by [s] 84; "rules of court" includes tribunal procedure rules; "terrorism offence" means any of the following (whenever committed) (a) an offence listed in (i) [sch] A1 to the Sentencing Code (terrorism offences: [E&W]), or (ii) [sch] 1A to the Counter-Terrorism Act 2008 (terrorism offences: Scotland and [NI]); (b) a service offence as respects which the coS 88. responding civil offence is so listed; and for this purpose "service offence" and "corresponding civil offence" have the same meanings as in the Counter-Terrorism Act 2008 (see [s] 95 of that Act); (c) an offence that (i) was abolished on or before the date this [s] comes into force, and (ii) if committed on or after the date on which it was abolished, would have constituted an offence referred to in [para] (a) or (b); (d) an offence determined to have a terrorist connection under (i) [s] 69 of the Sentencing Code (in the case of an offender sentenced in [E&W]), including as applied by [s] 238(6) of the Armed Forces Act 2006, (ii) [s] 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in [NI], or an offender sentenced in [E&W] before the Sentencing Code applied), or (iii) [s] 32 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced for a service offence before the Sentencing Code applied); (e) an offence proved to have been aggravated by reason of having a terrorist connection under [s] 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland).

S 88. **Damages at risk of being used for the purposes of terrorism.** [sch] 16 makes provision in relation to damages at risk of being used for the purposes of terrorism.

S 93. **Intelligence and Security Committee: memorandum of understanding.** (1) The Prime Minister and the Intelligence and Security Committee of Parliament must consider whether the memorandum of understanding under [s] 2 of the Justice and Security Act 2013 should be altered (or replaced) to reflect any changes arising out of this Act. (2) Consideration under [ss] (1) must begin before the end of the period of [6] months beginning with the day on which this [s] comes into force. S 94. **Minor and consequential amendments** (*amends*). S 95. **Power to make consequential amendments** (*amends*).

S 96. **Regulations.** (1) A power to make regulations under any provision of this Act includes power to make (a) consequential, supplementary, incidental, transitional or saving provision; (b) different provision for different purposes or different areas. (2) [ss] (1) does not apply to regulations under [s] 100 or 101. (3) Regulations under this Act are to be made by [SI]. (4) Regulations under this Act are subject to annulment in pursuance of a resolution of either House of Parliament, except (a) regulations under [s] 100 or 101; (b) regulations to which [ss] (6) applies; (c) regulations under [para] 46 of [sch] 6. (5) A [SI] containing (whether alone or with other provision) regulations to which [ss] (6) applies may not be made unless a draft of the [SI] has been laid before, and approved by a resolution of, each House of Parliament. (6) This [ss] applies to (a) regulations under [s] 65(3); (b) regulations under [s] 66 specifying a foreign power, or a person other than a foreign power, who is not specified immediately before the regulations are made; (c) regulations under [s] 68(5); (d) regulations under [s] 79(1)(a); (e) regulations under [s] 95 which contain provision within [s] 95(2); (f) regulations under [para] 3(2)(b) of [sch] 6; (g) regulations under [para] 4(3) of [sch] 6; (h) regulations under [para] 15 of [sch] 13; (i) regulations under [para] 27 of [sch] 14; (j) regulations under [para] 8 of [sch] 15. (7) A [SI] containing regulations under [para] 46 of [sch] 6 must be laid before Parliament as soon as practicable after being made. (8) Regulations contained in a [SI] laid before Parliament under [ss] (7) cease to have effect at the end of the period of 20 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament. (9) In calculating the period of 20 days no account is to be taken of any whole days that fall within a period during which (a) Parliament is dissolved or prorogued, or (b) either House of Parliament is adjourned for more than four days. (10) [ss] (8) and (9) do not apply to regulations under [para] 46 of [sch] 6 which revoke regulations under that [para]. (11) If a draft of a [SI] containing regulations under [s] 65, 66 or 68 would, apart from this [ss], be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument. \*<sup>49</sup>

S 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) [ss] (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.

S 98. **Extent in the [UK].** (1) This Act extends to [E&W], Scotland and [NI], subject to (a) [ss] (2), and (b) [s] 99. (2) An amendment or repeal made by this Act has the same extent in the [UK] as the provision to which it relates.

<sup>49</sup> This is common to much criminal legislation and the form should be standardized and set out in a CPA.

S 99. **Extent outside the [UK].** (1) [s] 22 extends to (a) the Isle of Man, and (b) the British Overseas Territories, except Gibraltar.

(2) [HM] may by Order in Council provide for any provision of this Act other than [s] 22 to extend (with or without modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia. (3) An Order in Council under [ss] (2) may make consequential, supplementary, incidental, transitional or saving provision. (4) The power under [s] 384(1) of the Armed Forces Act 2006 may be exercised so as to extend to any of the Channel Islands (with or without modifications) the amendment of [s] 238 of the Armed Forces Act 2006 made by [s] 22. (5) The power under [s] 384(2) of the Armed Forces Act 2006 may be exercised so as to modify [s] 238 of the Armed Forces Act 2006, as amended by [s] 22, as it extends to the Isle of Man or a British overseas territory other than Gibraltar. (6) The power under [s] 15(3) of the Official Secrets Act 1989 may be exercised so as to extend to any of the Channel Islands, the Isle of Man or a British Overseas Territory any amendment or repeal made by this Act of any provision of that Act. (7) The power under [s] 415 of the Sentencing Act 2020 may be exercised so as to extend to any of the Channel Islands or the Isle of Man (with or without modifications) any amendment or repeal made by this Act of any provision of that Act. S 100. **Commencement etc** (*spent*).

#### Appendix 2 (Terrorism)

##### Criminal Law Act 1977

S 51. **Bomb Hoaxes.** A person who (a) places any article in any place whatever; or (b) dispatches any article by post, rail or any other means whatever of sending things from one place to another, with the intention (in either case) of inducing in some other person a belief that it is likely to explode or ignite and thereby cause personal injury or damage to property is guilty of an offence. In this [ss] “*article*” includes substance. (2) A person who communicates any information which he knows or believes to be false to another person with the intention of inducing in him or any other person a false belief that a bomb or other thing liable to explode or ignite is present in any place or location whatever is guilty of an offence. (3) For a person to be guilty of an offence under [ss] (1) or (2) above it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief mentioned in that [ss]. (4) A person guilty of an offence under this [s] shall be liable (a) on summary conviction, to imprisonment for a term not exceeding [6] months or to a fine not exceeding £1,000, or both; (b) on conviction on indictment, to imprisonment for a term not exceeding [7] years. See also s 65 (*Citation*).

##### Suppression of Terrorism Act 1978

S 4. **Jurisdiction in respect of offences committed outside [UK].** (1) If a person, whether a citizen of the [UK] and *Colonies (obs)* or not, does in a convention country any act which, if he had done it in a part of the [UK], would have made him guilty in that part of the [UK] of (a) an offence mentioned in [para] 1, 2, 4, 5, 10, 11B, 12, 13, 14 or 15 of [sch] 1 to this Act; or (b) an offence of attempting to commit any offence so mentioned, he shall, in that part of the [UK], be guilty of the offence or offences aforesaid of which the act would have made him guilty if he had done it there. (3) If a person who is a national of a convention country but not a citizen of the [UK] and *Colonies (obs)* does outside the [UK] and that convention country any act which makes him in that convention country guilty of an offence and which, if he had been a citizen of the [UK] and *Colonies (obs)*, would have made him in any part of the [UK] guilty of an offence mentioned in [para] 1, 2 or 13 of [sch] 1 to this Act, he shall, in any part of the [UK], be guilty of the offence or offences aforesaid of which the act would have made him guilty if he had been such a citizen. (4) *Proceedings for an offence which (disregarding the provisions of the Internationally Protected Persons Act 1978), the Nuclear Material (Offences) Act 1983, the [UN] Personnel Act 1997 and the Terrorism Act 2000) would not be an offence apart from this [s] shall not be instituted (a) in [NI], except by or with the consent of the [AG] for [NI]; or (b) in [E&W], except by or with the consent of the [AG];* (5) Without prejudice to any jurisdiction exercisable apart from this [ss], every sheriff court in Scotland shall have jurisdiction to entertain proceedings for an offence which (disregarding the provisions of the Internationally Protected Persons Act 1978 and the Nuclear Material (Offences) Act 1983, the [UN] Personnel Act 1997 and the Terrorism Act 2000) would not be an offence in Scotland apart from this [s]. (7) For the purposes of this [s] any act done (a) on board a ship registered in a convention country, being an act which, if the ship had been registered in the [UK], would have constituted an offence within the jurisdiction of the Admiralty; or (b) on board an aircraft registered in a convention country while the aircraft is in flight elsewhere than in or over that country; or (c) on board a hovercraft registered in a convention country while the hovercraft is in journey elsewhere than in or over that country, shall be treated as done in that convention country; and [ss] (4) of [s] 92 of the Civil Aviation Act 1982 (definition of ‘*in flight*’ or, as applied to hovercraft, ‘*in journey*’) shall apply for the purposes of this [ss] as it applies for the purposes of that [s]. See also s 5 and Schedule. \*

#### Appendix 3 (Treason)

##### Treason Act 1495

S 2. **Persons serving the King for the Time being, in War, shall not be attainted of Treason, &c.** The King our Sovereign Lord calling to his remembrance the due tie of alliegeance of his subgettis of this his Realme, and that they by reason of the same are bounden to serve ther Prince and Sovereign Lord for the tyme being in his Werres for the defence of hym and the lande ageynst every rebellion power and myght reared ayenst hym, and with hym to entre and abide inservice in batell if the case so requyre; And that for the same service what fortune ever fall by chauce in the same bataille ayenst the mynde and weell of the Prince, as in this lande somtyme passed hath been seen, That it is not resonable but ayenst all lawes reason and gode conscience that the seid subgettis going with their sovereign Lord in Werres attending upon hym in his persone or being in other places by his commaundement within this land or without, any thing shuld loose or forfeite for doying their true dutie and service of alliegeance: from hensfourth no maner of persone ne persones whatsoever he or they be, that attend upon the King and Sovereign Lord of this lande for the tyme being in his persone and do him true and feithfull service of alliegeance in the same, or be in other places by his commaundement, in his Werres within this lande or without, that for the same dede and true service] of alliegeance he or they be in no wise convycte or atteynt of high treason ne of other offences for that cause by acte of Parliament or otherwise by any processe of lawe, wherby he or

any of them shall mowe forfeit life landes tenementes rentis possessions hereditamentis godes catelles or eny other thingis, but to be for that dede and service utterly discharged of any vexacion trouble or losse; And if any acte or actis or other processe of the lawe hereafter therupon for the same happen to be made contrary to this ordynance, that then that acte or actes or other processes of the lawe whatsoever they shall be, stande and be utterly voide.

#### **Crown of Ireland Act 1542**

S 2. **High treason by writing, deed, print, or act to occasion disturbance to his crown of Ireland, in name, stile, &c. The forfeiture. Saving the rights of others.** And if anie person or persons, of what estate, dignitie, or condition soever they or he be, subject, or resiant within Ireland, by writing or imprinting, or by any exterior act or deede, maliciously procure or doe, or cause to be procured or done, any thing or things to the perill of the King's majesties most royall person, or maliciously give occasion by writing, deede, print, or act, whereby the King's majestie, his heyres or successors, or any of them might be disturbed or interrupted of the crown of Ireland, or of the name, stile, or title thereof, or

by writing, deede, print, or act, procure or doe, or cause to be procured or done, any thing or things, to the prejudice, slaunder, disturbance, or derogation of the King's majestie, his heyres or successors, in, of or for the crowne of Ireland, or in, of or for the name, title, or stile thereof,

whereby his Majestie, his heyres or successors, or any of them might be disturbed or interrupted in body, name, stile, or title of inheritance, of, in, or to the crowne of Ireland, or of the name, stile, title, or dignitie of the same,<sup>50</sup> (*wording idented for convenience*)

that then every such person and persons, of what estate, degree or condition they be, subject or resiants within Ireland, and their aidours, counsaylours, mainteyners, and abbetours therein, and everie of them, for everie such offence, shall be adjudged high traytors, and everie such offence shall be adjudged and deemed high treason, and the offendours, their aydors, counsailours, maintaynours, and abbetours therein, and every of them being lawfully convicted of any such offence, by presentment, verdict, confession, or proofes, according to the customes and laws of Ireland, be liable to imprisonment for life, as in cases of high treason; and also shall lose and forfeit unto the King's highnesse, and to his heyres, Kings of Ireland, all such his mannors, landes, tenements, rents, reversions, annuities, and hereditaments, which they had in possession as owner, and were sole seised in their own right, of, by, or in any title or meanes, or in any other person or persons, had to their use of any estate of inheritance, at the day of any such treason and offences by them committed and done. And that also every such offendour shall lose and forfeit to the King's highnesse, and to his said heyres, as well all manner such estates of freehold, and interest for yeares of lands and rents, as all the goods, cattels and debts, which they or any of them had, at the time of their conviction or attaindour of, or for any such offence, saving alway to every person and persons, and bodies politique, their heyres, successours, and assignes, and to every of them, other then such persons as shall be so convicted or attainted, their heyres and successours, and all other clayming to their use, all such right, title, use, interest, possession, condition, rents, fees, offices, annuities, commons and profites, which they or any of them shall happen to have, in, to or upon any such manors, lands, tenements, rents, reversions, services, annuities, and hereditaments, which so shall happen to be lost and forfeited, by reason and occasion of any of the treasons or offences above rehearsed, any time before the said treasons or offences committed or done.

#### **Treason Act 1695**

S 5. **Indictment must be found by a Grand Jury within [3] Years.** And to the intent that the Terror and Dread of such Criminal Accusations may in some reasonable time bee removed That noe Person or Persons whatsoever shall bee indicted tryed or prosecuted for any such Treason as aforesaid or for Misprision of such Treason that shall bee committed or done within the Kingdome of England Dominion of Wales or Towne of Berwick upon Tweed unlesse the same Indictment bee found by a Grand Jury within [3] Years next after the Treason or Offence done and committed.

S 6. **Such Limitation not to extend to Assassination of the King.** Always provided and excepted that if any Person or Persons whatsoever shall bee guilty of designing endeavouring or attempting any Assassination on the Body of the King by Poyson or otherwise such Person or Persons may bee prosecuted at any time notwithstanding the aforesaid Limitation.

#### **Treason Act 1702 (1 Anne stat 2)**

S 3. **Endeavouring to hinder the Succession to the Crown according to the Limitations of Stat. and attempting the same by overt Act; High Treason. Limitations stated; and attempting the same by overt Act; High Treason.** And for the further Security of [HM's] Person and the Succession of the Crown in the Protestant Line and for extinguishing the Hopes of the pretended Prince of Wales and all other Pretenders and their open and secret Abettors if any Person or Persons shall endeavour to deprive or hinder any Person who shall be the next in Succession to the Crown for the Time being according to the Limitations in an Act intituled An Act declaring the Rights and Liberties of the Subject and settling the Succession of the Crown and according to One other Act intituled An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the Subject from succeeding after the Decease of HM] (whom God long preserve) to the Imperial Crown of this Realm and the Dominions and Territories thereunto belonging according to the Limitations in the before mentioned Acts that is to say such Issue of [HM's] Body as shall from time to time be next in Succession to the Crown if it shall please God Almighty to bless [HM] with Issue and during the Time [HM] shall have no Issue the Princess Sophia Electoress and Dutchess Dowager of Hanover and after the Decease of the said Princess Sophia the next in Succession to the Crown for the Time being according to the Limitation of the said Acts and the same maliciously advisedly and directly shall attempt by any overt Act or Deed every such Offence shall be adjudged High Treason and the Offender or Offenders therein their Abettors Procurers and Comforters knowing the said Offence to be done being thereof convicted or attainted according to the Laws and

<sup>50</sup> This is the gravamen of the offence. The Treason Felony Act 1848 was designed to cover it. Thus, effectively, his provision is spent.

*Statutes of this Realm shall be deemed and adjudged Traytors and shall be liable to imprisonment for life as in Cases of High Treason [likely obs].*

#### **Treason Act 1708**

S 1. **Crimes construed Treason, &c. in England, to be so construed in Scotland.** From and after the [1<sup>st</sup>] Day of July in the Year of our Lord [1709] such Crimes and Offences which are High Treason or Misprision of High Treason within England shall be construed adjudged and taken to be High Treason and Misprision of High Treason within Scotland and that from thenceforth no Crimes or Offences shall be High Treason or Misprision of High Treason within Scotland but those that are High Treason or Misprision of High Treason in England.

S 5. **Persons convicted of High Treason, &c. in Scotland, liable as in England.** And all Persons convicted of High Treason or Misprision of High Treason in Scotland shall be subject and liable to the same Penalties as Persons convicted of High Treason or Misprision of High Treason in England.

S 11. **Slaying Lords of Session sitting in Judgment, Treason.** And if any Person shall slay any of the Lords of Session Lords of Justiciary sitting in Judgment in the Exercise of their Office within Scotland the doing thereof shall be construed adjudged and taken to be High Treason.

S 12. **Counterfeiting Seals appointed by 22d Article, Treason.** And if any Person counterfeit [HMs] Seals appointed by the [24] Article of the Union to be kept used and continued in Scotland the doing thereof shall be construed and adjudged to be High Treason.<sup>51</sup>

#### **Treason Act 1814**

S 1. **Form of sentence in case of high treason.** In all cases of high treason in which as the law now stands the sentence or judgement ordained by law is as aforesaid, the sentence or judgement to be pronounced or awarded from and after the passing of this Act against any person convicted or adjudged guilty shall be, that such person shall be liable to imprisonment for life.

#### **Treason Act 1842**

S 2. **Punishment for discharging or aiming fire-arms, or throwing or using any offensive matter or weapon, with intent to injure or alarm [HM].** If any person shall wilfully discharge or attempt to discharge, or point, aim, or present at or near to the person of the Queen, any gun, pistol, or any other description of fire-arms or of other arms whatsoever, whether the same shall or shall not contain any explosive or destructive material, or shall discharge or cause to be discharged, or attempt to discharge or cause to be discharged, any explosive substance or material near to the person of the Queen, or if any person shall wilfully strike or strike at, or attempt to strike or to strike at, the person of the Queen, with any offensive weapon, or in any other manner whatsoever, or if any person shall wilfully throw or attempt to throw any substance, matter, or thing whatsoever at or upon the person of the Queen, with intent in any of the cases aforesaid to injure the person of the Queen, or with intent in any of the cases aforesaid to break the public peace, or whereby the public peace may be endangered, or with intent in any of the cases aforesaid to alarm [HM], or if any person shall, near to the person of the Queen, wilfully produce or have any gun, pistol, or any other description of fire-arms or other arms whatsoever, or any explosive, destructive, or dangerous matter or thing whatsoever, with intent to use the same to injure the person of the Queen, or to alarm [HM], every such person so offending shall be guilty of a *high misdemeanor [obs]*, and being convicted thereof in due course of law, shall be liable, at the discretion of the court before which the said person shall be so convicted, to be *transported beyond the seas [obs]* for the term of [7] years, or to be imprisoned.

S 3. **Not to alter the punishment for high treason.** Provided always, that nothing herein contained shall be deemed to alter in any respect the punishment which by law may now be inflicted upon persons guilty of high treason or misprision of treason.

[Not printed, Treason Acts extending to NI (1703 and 1821).]

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Not applicable.

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### **Competing interests**

Not applicable.

### **Informed consent**

Obtained.

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<sup>51</sup> Counterfeiting these seals should no longer be the crime of treason but that of counterfeiting. It may be noted that English legislation does not so provide.



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**Data sharing statement**

No additional data are available.

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