

STATE SECURITY ACT

CHAPTER 14:02

Act
1 of 1984

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1-18 1/1991

Note
on
Subsidiary Legislation

This Chapter contains no Subsidiary Legislation.

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CHAPTER 14:02

STATE SECURITY ACT

1 of 1984. **AN ACT to make provision relating to state security; to deal with espionage and other activities prejudicial to the interests of the State; and for matters incidental thereto and connected therewith.**

Commencement. [1st March 1984]

Short title. 1. This Act may be cited as the –
STATE SECURITY ACT.

Interpretation. 2. (1) In this Act –
“article” includes any thing, substance or material;
“cipher” includes –
 (a) a code or cryptogram;
 (b) a system, method, device or machine whereby a cipher, code or cryptogram may be created;
 (c) a code word, password or identification signal;
“information” means information of any kind whatsoever, whether true or false and whether in a material form or not, and includes –
 (a) an opinion; and
 (b) a report of a conversation;
“Minister” means the Minister responsible for National Security;
“model” includes a design, pattern and specimen;
“plan” includes a written record of a survey or of a bearing or measurement taken for the purpose of fixing the position of a place;
“sketch” includes a representation of a place or thing;
“State” means the Commonwealth of Dominica.

(2) In this Act –
 (a) expressions referring to obtaining, collecting, recording, using, having in possession, communicating, receiving or retaining include obtaining, collecting, recording, using, having in possession, communicating,

receiving or retaining in whole or in part, and whether the thing or information itself, or only the substance, effect or description of the thing or information, is obtained, collected, recorded, used, possessed, communicated, received or retained;

- (b) expressions referring to obtaining or retaining any sketch, plan, photograph, model, cipher, note, document, article or information include copying or causing to be copied the whole or a part of the sketch, plan, photograph, model, cipher, note, document, article or information; and
- (c) expressions referring to the communication of any sketch, plan, photograph, model, cipher, note, document, article or information include the transfer or transmission, or the publishing of the sketch, plan, photograph, model, cipher, note, document, article or information.

(3) A reference in this Act to a sketch, plan, photograph, model, cipher, note, document or article or to information shall be read as including a reference to a copy of, a part of or copy of a part of a sketch, plan, photograph, model, cipher, note, document or article or information.

(4) For the purposes of this Act, a place that is occupied by or a thing that is under the control of the State shall be deemed to belong to the State.

(5) This Act applies to and in relation to a sketch, plan, photograph, model, cipher, note, document or article by whosoever it is made and whatsoever material it is made of and whatsoever information it contains.

3. The following places shall be prohibited places:

Prohibited places.

- (a) any work of defence, arsenal, factory, dockyard, aerodrome, camp, ship, aircraft, telegraph or signal station, or office, belonging to the State and of use in time of war and any other place belonging to the State used for the purpose of building, repairing, making, obtaining, or storing any ship, aircraft, arms or materials or instruments for use in time of war, or any plans or documents relating thereto;

- (b) any camp, barracks or place where prisoners of war, or internees are detained;
- (c) any place where any ship, aircraft, arms, or materials or instrument of use in time of war, or any plans, or documents relating thereto, are being made, repaired, obtained, tested or stored under contract with, or with any person on behalf of the State;
- (d) any place which is for the time being declared by the Minister by Order to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy or to a foreign power; and
- (e) any road, way, or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith), or any place used for water, electricity works or other works for purposes of a public character, or any place where any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans or documents relating thereto, are being made, repaired, obtained, tested or stored otherwise than on behalf of the State, which is for the time being declared by the Minister by Order to be a prohibited place for the purposes of this Act, on the ground that information with respect thereto or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy or to a foreign power.

Espionage and
similar activities.

4. (1) Any person who for a purpose intended to be prejudicial to the safety or defence of the State of Dominica –

- (a) makes a sketch, plan, photograph, model, cipher, note, document or article that is likely to be, might be or is intended to be directly or indirectly useful to an enemy or a foreign power;
- (b) obtains, collects, records, uses, has in his possession or communicates to another person a sketch, plan, photograph, model, cipher, note, document, article or information that is likely to be, might be or is intended to be directly or indirectly useful to an enemy or a foreign power.

- (c) approaches, is in the neighbourhood of, is in, enters, inspects or passes over a prohibited place,

is liable to imprisonment for fourteen years.

(2) On a prosecution under this section –

- (a) it is not necessary to show that the accused person was guilty of a particular act tending to show a purpose intended to be prejudicial to the safety or defence of the State and, notwithstanding that such an act is not proved against him, he may be convicted if, from the circumstances of the case or from his conduct, it appears that his purpose was a purpose intended to be prejudicial to the safety or defence of the State; and
- (b) if any sketch, plan, photograph, model, cipher, note, document, article or information relating to or used in a prohibited place, or anything in such a place, was made, obtained, collected, recorded, used, possessed or communicated by any person other than a person acting under lawful authority, it shall, unless the contrary is proved, be deemed to have been made, obtained, collected, recorded, used, possessed or communicated for a purpose intended to be prejudicial to the safety or defence of the State.

(3) On a prosecution under this section, evidence is not admissible by virtue of subsection (2)(a) if the Court is of the opinion that that evidence, if admitted –

- (a) would not tend to show that the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the State; or
- (b) would, having regard to all the circumstances of the case and notwithstanding subsection (4), prejudice the fair trial of the defendant.

(4) If the evidence referred to in subsection (2) is admitted the Court may take that evidence into account only on the question whether it tends to show that the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the State and shall disregard the evidence in relation to any other question.

5. (1) For the purposes of this section, a sketch, plan, photograph, model, cipher, note, document or article in a prohibited place,

Official secrets.

photograph, model, cipher, note, document or article in relation to a person, and information is prescribed information in relation to a person, if that person has it in his possession or control and –

- (a) it has been made or obtained in contravention of this Act;
- (b) it has been entrusted to the person by a public officer or a person holding public office in the State or he has made or obtained it owing to his position as a person –
 - (i) who is or has been a public officer;
 - (ii) who holds or has held office under the Government;
 - (iii) who holds or has held a contract made on behalf of the State;
 - (iv) who is or has been employed by or under a person to whom subparagraph (iii) applies; or
 - (v) acting with the permission of a Member of the Cabinet,

and, by reason of its nature or the circumstances under which it was entrusted to him or it was made or obtained by him or for any reason, it is his duty to treat it as secret; or

- (c) it relates to a prohibited place or anything in a prohibited place and –
 - (i) he knows; or
 - (ii) by reason of its nature or the circumstances under which it came into his possession or control or for any other reason, he ought to know,
 that it should not be communicated to a person not authorised to receive it.

(2) Any person who for a purpose intended to be prejudicial to the safety or defence of the State –

- (a) communicates a prescribed sketch, plan, photograph, ~~model, cipher, note, document or article, or prescribed~~ information to a person other than –
 - (i) a person to whom he is authorised to communicate it; or
 - (ii) a person to whom it is, in the interest of the State, his duty to communicate it.

or permits a person, other than a person referred to in subparagraph (i) or (ii), to have access to it;

- (b) retains a prescribed sketch, plan, photograph, model, cipher, note, document or article in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it; or
- (c) fails to comply with a direction given by lawful authority with respect to the retention or disposal of a prescribed sketch, plan, photograph, model, cipher, note, document or article,

is liable to imprisonment for fourteen years.

(3) Any person who communicates a prescribed sketch, plan, photograph, model, cipher, note, document or article, or prescribed information to a person, other than –

- (a) a person to whom he is authorised to communicate it; or
- (b) a person to whom it is, in the interest of the State, his duty to communicate it,

or permits a person, other than a person referred to in paragraph (a) or (b), to have access to it, is liable to imprisonment for five years.

(4) Any person who –

- (a) retains a prescribed sketch, plan, photograph, model, cipher, note, document or article in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it; or
- (b) fails to comply with a direction given by lawful authority with respect to the retention or disposal of a prescribed sketch, plan, photograph, model, cipher, note, document or article; or
- (c) fails to take reasonable care of a prescribed sketch, plan, photograph, model, cipher, note, document or article, or prescribed information, or to ensure that it is not communicated to a person not authorised to receive it or so conducts himself as to endanger its safety,

is liable to imprisonment for two years.

(5) Any person who receives any sketch, plan, photograph, model, cipher, note, document or article, or prescribed information, or

having reasonable grounds to believe, at the time when he receives it, that it is communicated to him in contravention of subsection (2)(a) is, unless he proves that the communication was contrary to his intention, liable to imprisonment for seven years.

(6) Any person who receives any sketch, plan, photograph, model, cipher, note, document, article or information, knowing, or having reasonable ground to believe, at the time when he receives it, that it is communicated to him in contravention of subsection (3) is, unless he proves that the communication was contrary to his intention, liable to imprisonment for five years.

(7) On a prosecution under subsection (2) it is not necessary to show that the accused person was guilty of a particular act tending to show a purpose intended to be prejudicial to the safety or defence of the State and, notwithstanding that such an act is not proved against him, he may be convicted if, from the circumstances of the case or from his conduct, it appears that his purpose was a purpose intended to be prejudicial to the safety or defence of the State.

(8) On a prosecution under this section, evidence is not admissible by virtue of subsection (7) if the Court is of the opinion that that evidence, if admitted –

- (a) would not tend to show that the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the State; or
- (b) would, having regard to all the circumstances of the case and notwithstanding subsection (9), prejudice the fair trial of the defendant.

(9) If evidence referred to in subsection (7) is admitted at the trial, the Court may take into account the evidence only on the question whether the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the State and shall disregard the evidence in relation to any other question.

(10) A person charged with an offence against subsection (2) may be found guilty of an offence against subsection (3) or (4) and a person charged with an offence against subsection (3) may be found guilty of an offence against subsection (6).

6. (1) Any person who –

- (a) knowingly harbours any person whom he knows or has reasonable ground for supposing to be a spy or

- (b) knowingly permits any persons whom he knows or has reasonable ground for supposing to be spies, to meet or assemble in any premises in his occupation or under his control; or
- (c) having harboured any person whom he knows or has reasonable ground for supposing to be a spy, or having permitted any persons whom he knows or has reasonable ground for supposing to be spies to meet or assemble in any premises in his occupation or under his control, refuses to disclose to any authorised officer any information which it is in his power to give in relation to that person or those persons;

is liable on conviction to imprisonment for five years.

(2) For the purposes of this section any person who has committed any offence or is about to commit any offence against this Act (other than this section) shall be deemed to be a spy.

(3) In this section, “authorised officer” means –

- (a) a police officer;
- (b) any other person declared by the Minister, in writing, to be an authorised officer for the purposes of this section.

7. (1) If a Judge or a Magistrate is satisfied by information on oath Search warrants. that there is reasonable ground for suspecting that an offence against this Act has been, is being or is about to be committed, he may grant a search warrant.

(2) A search warrant granted under this section authorises any police officer who is named in, or is lawfully in possession of, the warrant, with such assistance as he thinks necessary, to –

- (a) enter, if necessary by force, at any time, any premises or place named or described in the warrant;
- (b) search the premises or place and every person found therein and every person whom he reasonably believes to be about to enter or to have recently left the premises or place;
- (c) break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a ~~summit~~ or not, in the premises or place;

- (d) seize anything that he finds on the premises or place or on any such person, and which he has reasonable grounds to believe is evidence of or otherwise relates to any offence or suspected offence which has been, is being or is about to be committed against this Act;
 - (e) make extracts from or copies of any book, document or paper liable to seizure under the warrant; and
 - (f) take such action as he considers expedient to prevent the commission of an offence against this Act.
- (3) Where a search warrant is granted under this section –
- (a) the person who applied for the grant of the warrant shall forward to the Attorney General a report of all the circumstances relating to the granting of the warrant; and
 - (b) the police officer who executes the warrant shall forward to the Attorney General a report of all the circumstances relating to the execution of the warrant.
- (4) A female shall not be searched under this section except by a female.
- (5) In this section, “premises” includes vehicle, vessel or aircraft.

Unlawful soundings.

8. (1) Any person who in Dominica –
- (a) takes any unlawful soundings;
 - (b) makes any record of any unlawful soundings;
 - (c) knowingly has in his possession any record of unlawful soundings;
 - (d) communicates to any person outside Dominica any record of or information concerning unlawful soundings; or
 - (e) communicates to any other person any record or information concerning unlawful sounding with intent that the record or information may be communicated to any person outside Dominica,

is liable to imprisonment for five years.

(2) For the purposes of this section all soundings taken in the territorial sea of Dominica shall be deemed to be unlawful unless they

were made under the authority of the Government or were reasonably necessary for the navigation of the vessel from which they were taken.

(3) In any prosecution under this section, in the absence of proof by the defendant that the soundings were taken with lawful authority, the soundings shall be deemed to have been unlawfully taken.

(4) Any figure or word or sign representing a figure (other than the printed figures appearing on any official or recognised map or chart) appearing on any map or sketch of any portion of the coast or territorial sea of Dominica shall, in the absence of satisfactory proof to the contrary, be deemed to be a record of an unlawful sounding, but nothing in this subsection shall prevent proof of unlawful soundings in any other manner.

(5) All records of unlawful soundings including all maps or charts having thereon any record of unlawful soundings shall be forfeited to the State.

(6) A reference in this section to soundings shall be read as including a reference to a hydrographic survey and reference to the taking of soundings shall be read as including a reference to the making of a hydrographic survey.

9. (1) A person who for the purpose of contravening or of assisting another person to contravene a provision of this Act, or of gaining admission or of assisting another person to gain admission to a prohibited place –

Illegal use of uniforms, official permits, impersonation, etc.

- (a) uses or wears, without lawful authority, a naval, military, air force, police or other official uniform, or a uniform so nearly resembling such a uniform as to be likely to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear such a uniform;
- (b) makes use of a disguise or false name or knowingly adopts a false identity or nationality, or knowingly conceals his identity or nationality;
- (c) forges, alters, impersonates, impersonates or uses an official permit or knowingly uses or has in his possession a forged, altered or irregular official permit or official paper or anything so closely resembling an official permit or official paper as to be likely to

- (d) personates, or falsely represents himself to be, a person –
- (i) who is or has been a public officer;
 - (ii) who holds or has held office under the Government;
 - (iii) who holds or has held a contract made on behalf of the State;
 - (iv) who is or has been employed by or under a person to whom subparagraph (iii) applies; or
 - (v) acting with the permission of a Member of Cabinet;
- (e) without lawful authority or excuse, manufactures, alters, uses or disposes of, or has in his possession or under his control –
- (i) an official die, key, badge, device, seal or stamp;
 - (ii) an impression of such a die, key, badge, device, seal or stamp; or
 - (iii) an official paper; or
- (f) counterfeits an official die, key, badge, device, seal or stamp, or uses, disposes of or has in his possession or under his control –
- (i) counterfeited official die, key, badge, device, seal or stamp;
 - (ii) anything so closely resembling an official die, key, badge, device, seal or stamp as to be likely to deceive; or
 - (iii) any paper so closely resembling an official paper as to be likely to deceive,

is liable to imprisonment for fourteen years.

(2) A person who without lawful authority or excuse –

- (a) allows another person to have possession of an official permit issued for the use of the first-mentioned person alone;
- (b) being a person for whose use an official permit has been issued, fails to comply with a direction or condition appearing on, or given by the authority which issued the

- (c) has in his possession or use an official permit issued for the use of some person other than himself;
- (d) on obtaining possession of an official permit by finding or otherwise, neglects or fails to restore it to –
 - (i) the person or authority by whom or for whose use it was issued;
 - (ii) a public officer; or
 - (iii) a police officer;

is liable to imprisonment for five years.

(3) For the purposes of this section –

- (a) the expression “official permit” means a naval, diplomatic, military, air force, police or official passport, pass, permit, badge, certificate, licence or document which –
 - (i) purports to identify the holder or to authorise him to do an act or thing; and
 - (ii) is used or intended for use in the service of the State;
- (b) a die, key, badge, device, seal, stamp or paper shall be deemed to be an official die, key, badge, device, seal, stamp or paper, as the case may be, if it is used or intended for use in the service of the State.

10. A person may, without warrant, arrest another person –

- (a) if that other person has committed, is committing, has attempted to commit or is attempting to commit an offence against this Act; or
- (b) if there is immediate danger that that other person will commit or attempt to commit an offence against this Act; or
- (c) if that first-mentioned person is a police officer and he has reasonable grounds for believing that that other person has committed, is committing, has attempted to commit, is attempting to commit or is about to commit an offence against this Act,

Arrest without
warrant of
offenders against
this Act.

and the arrested person may be detained in proper custody to be dealt with according to law.

Arrest of persons
in or about
prohibited
places.

11. (1) Where a public officer has reasonable grounds for suspecting that a person who is in or in the neighbourhood of a prohibited place has committed, is committing, has attempted to commit, is attempting to commit or is about to commit an offence against this Act, the public officer may, without warrant, arrest that person.

(2) A person who is arrested in pursuance of subsection (1) shall forthwith be brought before the officer or other person in charge of the prohibited place and shall be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention.

(3) The officer or other person in charge of the prohibited place may order the person brought before him to be detained pending further investigation, and the person shall thereupon be detained.

(4) If a person is arrested under this section, a report of the facts and circumstances shall forthwith be made by the officer or other person in charge of the prohibited place to the Attorney General and –

- (a) if no charge is laid against the suspected person within twenty-four hours after his arrest, he shall be released from detention; or
- (b) if a charge is laid against the suspected person, he shall be dealt with according to law.

(5) A person who is arrested or detained in pursuance of this section (and who is not released) shall be afforded reasonable opportunities to consult a legal practitioner of his own choice.

(6) No action lies against the State or a public officer or any other person in respect of any arrest or detention made in good faith in pursuance of this section.

Search of
suspects.

12. (1) If a public officer or a police officer has reasonable ground for suspecting that a person who –

- (a) is about to enter or leave Dominica;
- (b) has been in or near, or has passed over a prohibited place; or
- (c) is behaving or has behaved in a suspicious manner, or is in possession of evidence of an offence against this Act;

and that he may cause the person, his belongings and any thing in his

article in his possession to be searched, and may, without warrant, detain the person for that purpose.

(2) A female shall not be searched under this section except by a female.

13. (1) A prosecution under this Act shall be instituted only with the consent of the Attorney General or of a person acting under his direction but a person charged with an offence against this Act may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, notwithstanding that the consent of the Attorney General or a person acting under his direction has not been obtained, but no further proceedings shall be taken until that consent has been obtained.

Institution of prosecution.

(2) Nothing in this section shall prevent the discharging of the accused if proceedings are not continued within a reasonable time.

14. Where an offence against this Act is committed by a company or corporation, or by a member or servant of a partnership acting in the course of the business of the partnership, every director and officer of that company or corporation, or every member of that partnership, as the case may be, shall be guilty of that offence, unless he proves that the act or omission constituting the offence occurred without his knowledge or consent.

Offences by companies, etc.

15. (1) At any time before or during the hearing before a Court of an application or other proceedings in pursuance of this Act, the Judge or Magistrate presiding over the proceedings, may, if satisfied that such a course is expedient in the interest of the defence of the State –

Hearing in camera, etc.

- (a) order that some or all of the members of the public shall be excluded during the whole or a part of the hearing of the application or proceedings;
- (b) order that no report of the whole or a specified part of or relating to the application or proceedings shall be published; or
- (c) make such order and give such directions as he thinks necessary for ensuring that no person without the approval of the Court has access, either before, during or after the hearing of the application or the proceedings, to any document, exhibit, information or other

document used in the application or the proceedings that is on the file in the Court or in the records of the Court.

(2) A person who contravenes or fails to comply with an order made or direction given in pursuance of this section is liable to imprisonment for five years.

Imprints to be evidence.

16. (1) The imprint appearing upon a book, periodical, pamphlet, hand-bill, poster or newspaper is, in a prosecution for an offence against this Act, evidence that the book, periodical, pamphlet, hand-bill, poster or newspaper was printed or published by the person specified in the imprint.

(2) For the purposes of this section, “imprint” means a statement of the name and address of the printer or the publisher of the book, periodical, pamphlet, hand-bill, poster or newspaper, with or without a description of the place where it is printed.

Forfeiture articles, etc.

17. A photograph, sketch, plan, model, article, cipher, note, record, document, die, key, badge, device, seal, stamp or paper which is made, obtained, collected, recorded, retained, forged, possessed or otherwise dealt with in contravention of this Act shall be forfeited to the State.

Attempts, etc.

18. Any person who attempts to commit an offence under this Act or solicits or incites or endeavours to persuade another person to commit any such offence, or aids or abets or does any act preparatory to the commission of any such offence, is guilty of an offence and liable on conviction to the same penalty to which he would have been liable if he had been convicted of the offence.

Extra-territorial effect.

19. Any act, omission or other conduct constituting an offence under this Act shall constitute such an offence whether that act, omission or other conduct took place within or outside Dominica.
