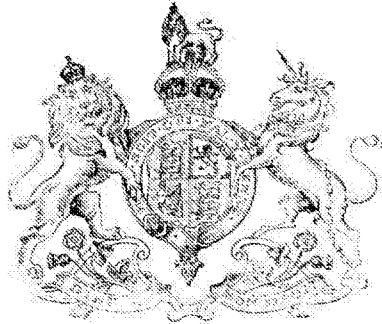


New Zealand.



OFFICIAL AND DEFENCE SECRETS.

1908, No. 135.

AN ACT to consolidate certain Enactments of the General Assembly as to the Disclosure of Information relating to Official or Defence Matters.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) The Short Title of this Act is "The Official and Defence Secrets Act, 1908." Short Title.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto. Enactments consolidated.

(3.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

2. In this Act, if not inconsistent with the context,—

"Document" includes part of a document;

"Model" includes design, pattern, and specimen;

"Office under His Majesty" includes any office or employment in New Zealand in or under any Department of the Government of the United Kingdom, or in or under any Department of the Government of New Zealand;

"Sketch" includes any drawing, photograph, or other mode of representation of any place or thing;

Any reference to a place belonging to His Majesty includes a place in New Zealand belonging to any Department of the Government of the United Kingdom or of New Zealand, whether such place is or is not actually vested in His Majesty;

Expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model, or information itself, or the substance or effect thereof only, is communicated.

Interpretation.
1891, No. 3, sec. 2

Disclosure of
information relating
to defences.
1891, No. 3, sec. 3

3. Every person is liable, at the discretion of the Court, to imprisonment with or without hard labour for a term not exceeding one year, or to a fine, or to both imprisonment and a fine, who—

(a.) For the purpose of wrongfully obtaining information—

(i.) Enters or is in any part of a place belonging to His Majesty, being a fortress, fort, arsenal, factory, dockyard, camp, ship, office, or other like place, in which part he is not entitled to be; or

(ii.) Being lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model, or knowledge of any thing he is not entitled to obtain, or takes without lawful authority any sketch or plan; or

(iii.) Being outside any fortress, fort, arsenal, factory, dockyard, or camp belonging to His Majesty, takes or attempts to take without authority given by or on behalf of His Majesty any sketch or plan of that fortress, fort, arsenal, factory, dockyard, or camp; or

(b.) Knowingly having possession of or control over any document, sketch, plan, model, or knowledge obtained or taken by means of any act amounting to an offence against this Act, at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not in the interest of the State to be communicated at that time; or

(c.) Being intrusted in confidence by some officer under His Majesty with any document, sketch, plan, model, or information relating to any such place as aforesaid, or to the naval or military affairs of His Majesty, wilfully and in breach of such confidence communicates the same to any person when in the interest of the State it ought not to be communicated; or

(d.) Having possession of any document, sketch, plan, model, or information relating to any fortress, fort, arsenal, factory, dockyard, camp, ship, office, or other like place belonging to His Majesty, or otherwise relating to the naval or military affairs of His Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not in the interest of the State to be communicated at that time.

4. Where a person commits any act punishable under the last preceding section he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model, or knowledge obtained or taken by him, or intrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be liable at the discretion of the Court to imprisonment with hard labour for life or for any term not less than five years, or to imprisonment for any term not exceeding two years with or without hard labour.

Disclosure to
foreign State.
Ibid, sec. 3 (3)
1893, No. 56, sec. 7

5. (1.) Every person is guilty of a breach of official trust who, by means of his holding or having held an office under His Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan, or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model, or information to any person to whom the same ought not in the interest of the State, or otherwise in the public interest, to be communicated at that time.

Breach of official trust.
1891, No. 3, sec. 4
1893, No. 56, sec. 7

(2.) Every person guilty of a breach of official trust is liable, at the discretion of the Court,—

(a.) If the communication was made or attempted to be made to a foreign State, to imprisonment with hard labour for life or for any term not less than five years, or to imprisonment for any term not exceeding two years with or without hard labour; and

(b.) In any other case, to imprisonment with or without hard labour for a term not exceeding one year, or to a fine, or to both imprisonment and a fine.

(3.) This section applies to a contractor with any Department of the Government of New Zealand, or with the holder of any office under His Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any such contractor and being under a like obligation of secrecy, in the same manner as if the contractor and the person so employed were respectively holders of an office under His Majesty.

6. Any person who incites or counsels or attempts to procure another person to commit an offence against any of the preceding provisions of this Act is liable to the same punishment as if he had committed the offence.

Punishment for inciting or counselling offence.
1891, No. 3, sec. 5

7. A prosecution for an offence against any of the preceding provisions of this Act shall be by indictment, and the prosecution shall not be instituted except by or with the consent of the Attorney-General or Solicitor-General of New Zealand.

Restriction on prosecution.
Ibid, sec. 6

8. (1.) Every person is liable on summary conviction before a Magistrate or two or more Justices to imprisonment for any period not exceeding one month, or a fine not exceeding twenty pounds who—

Penalty for trespassing upon any fort, battery, &c.
Ibid, sec. 7, 10

(a.) Is found loitering in the immediate vicinity of any defences, and with sketching, drawing, photographic, or printing materials or apparatus in his possession, with the intention or apparent intention of committing an offence against this Act; or

(b.) Without authority or permission of the person in charge of any defences enters upon or trespasses on such defences or any part thereof, or on any land reserved for or forming part of such defences, whether any erection, fortification, or work of any kind is standing thereon or not; or

(c.) Refuses to depart from the vicinity of such defences, or to quit or leave such defences or any part thereof, or any land reserved for or forming part of any such defences or used in connection therewith, on being requested by the person in charge thereof to do so.

(2.) For the purposes of this section—

“Defences” means any fort, battery, field-work, or fortification, and any vessel of any kind and any place or erection of any kind armed with artillery or other means intended to repel hostile aggression, and includes any magazine or store in which arms, ammunition, or warlike material is stored or kept, or intended for any such purpose as aforesaid, and also any mine (on land or in or under water), torpedo, or torpedo-boat, and any guns, arms, weapons, or warlike implements or machinery of any kind used, placed, or being in any such fort, battery, field-work, fortification, vessel, torpedo-boat, mine, place, or erection as aforesaid.

Trepassers,
loiterers about fort,
battery, &c., may
be apprehended.
1891, No. 3, sec. 8

(3.) Any officer or non-commissioned officer of the Defence Forces, or any constable, may—

(a.) Without any warrant or other authority, arrest any person found offending against this section, and take or cause him to be taken, as soon as conveniently may be, before a Justice, to be dealt with under this Act:

(b.) Seize and take possession of any drawing, sketch, or model, or any tools, implements, materials, or apparatus in the possession of any person found committing an offence against this Act.

Drawings, sketches,
tools, apparatus,
&c., may be seized.
Ibid, sec. 9

(4.) All things seized under the last preceding subsection shall be forfeited to His Majesty, and may be destroyed, sold, or otherwise disposed of as the Governor directs.

Members of
Defence Force may
be dealt with under
Defence Act or
this Act.
Ibid, sec. 11

9. Every person liable to the provisions of “The Defence Act, 1908,” or any Act or articles of war for the time being incorporated with such first-mentioned Act, who commits an offence against this Act may be tried and dealt with either under the said Acts or articles, or any of them, in like manner as if such offence were one for which he was liable to be so tried, or may be charged and dealt with under this Act, and in either case, if convicted, shall be liable to the punishment provided by this Act:

Provided that no such person shall be punished twice for the same offence.

Offenders not
exempt from
punishment under
other law.
Ibid, sec. 12

10. This Act shall not exempt any person from any proceedings for an offence which is punishable by military or naval law, or under any Act other than this Act:

Provided that no person shall be punished twice for the same offence.

SCHEDULE.

ENACTMENTS CONSOLIDATED.

1891, No. 3.—“The Official and Colonial Defences Secrets Act, 1891.”