

APPENDIX 13

(Referred to in para [J2441](#))**SECTION 1 - EXTRACTS FROM THE OFFICIAL SECRETS ACT, 1989**

Section 2 of the Official Secrets Act, 1989, provides as follows:

2 (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 subsection (1) above a disclosure is damaging if:

(a) it damages the capability of, or any part of, the armed 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 paragraph (a) above, it endangers the interests of the United Kingdom abroad, seriously obstructs the promotion or protection by the United Kingdom 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 unauthorized disclosure would be likely to have any of those effects.

(3) It is a defence for a person charged with an offence under this section 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 subsection (1) above.

(4) In this section "defence" means:

(a) the size, shape, organization, 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.

Section 8 (1-3) of the Official Secrets Act 1989, provides as follows:

8 (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 subsection (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 subsections (1) and (2) above references to a Crown servant include any person, not being a Crown servant or government contract, in whose case a notification for the purposes of section 1(1) above is in force.

MOD Form 134
(Revised 04/08)

OFFICIAL SECRETS ACTS AND CONFIDENTIALITY DECLARATION

(to be signed on appointment to, or on behalf of, the Ministry of Defence (including service in the Armed Forces) - Crown service; or, when otherwise in receipt of official information).

Introduction The Official Secrets Acts (1911 - 1989) provide for the protection of official information* (whether protectively marked (classified) or not) which may have been entrusted to you by the Ministry of Defence. You remain subject to these Acts at all times both while in Crown service and after termination of such service. You are liable to prosecution and imprisonment if found to be in breach of the Acts (either in the UK or overseas). You are further advised that under civil law you also have a Duty of Confidentiality to the Ministry of Defence and are bound by Crown copyright where it relates to official information. Where applicable, you are subject to the confidentiality and disclosure provisions of either the MOD Personnel Manual (for Civil Servants) or Queen's Regulations (for Service personnel). A breach of which can be a disciplinary offence. This form draws your attention to your obligations which continue after termination of Crown service and are lifelong.

*Official Information can be (example only): oral, written (including documents or notes), electronic, mechanical, sketches, plans, models, books, pamphlets, articles, journals, log books, speeches, lectures, instructional material and photographs. It does not have to be protectively marked (classified) to be covered by this obligation/declaration.

Full Name (Block Capitals)

Obligations I am aware of the Official Secrets Acts and that I am subject to them and that there are serious consequences if I am found to be in breach of them. I understand that I have a Duty of Confidentiality to the Ministry of Defence and that I may be in breach of that duty and of Crown copyright if I disclose any official information without prior permission of the Ministry of Defence. I understand that where I gain access to or am entrusted with official information, in whatever form and by whatever means, it is my duty to continue to protect that information. I understand that I cannot retain official information, documents or other material, other than for the purpose of official duty. Any such items will be surrendered either on completion of my appointment or at the end of Crown Service unless I have lawful authority to retain that information. Any official information gained by me which may be subject to the Official Secrets Acts, my Duty of Confidentiality, or Crown copyright, will not be disclosed to a third party (either in the UK or overseas) without prior permission of the Ministry of Defence(☐). This includes commenting on other official information that may require protection.

Declaration I have read MOD Form 134. I am fully aware of my obligations under the Official Secrets Acts, the Duty of Confidentiality, Crown copyright and where applicable, the MOD Personnel Manual or Queen's Regulations. I understand that I am liable to serious consequences, which, may include prosecution and imprisonment, if I am found to be in breach of these obligations (either in the UK or overseas). I understand that it applies to me at all times during and after completion of Crown service.

Signed.....

Date.....

Surname (Block Letters)

Forename(s) (Block Letters)

Rank/Grade (if applicable)

Service/Staff Number (if applicable)