

*Fortifications and Official Secrets.***No. 15 of 1890.****An Ordinance relating to Fortifications and Official Secrets.**

**W**HEREAS it is expedient to prevent unauthorized persons from trespassing on, or making sketches of, fortifications and other naval or military works or positions in this island, and also to provide against the disclosure of official documents and information: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

**1** This Ordinance may be cited as "The Fortifications and Official Secrets Ordinance, 1890."

Short title.

**2** In this Ordinance, unless the context otherwise requires—

Definitions.

"Sketch" includes any drawing, photograph, picture, painting, plan, map, survey, or other representation, by whatever means or process made, of any place or thing.

"Sketching materials" includes all implements, materials, and apparatus which are or may be used for the purpose of making any sketch.

"Fortification" includes any fort, battery, or fieldwork, and any arsenal, factory, dockyard, camp, ship, naval establishment, office, or other like place, and whether the same be constructed or in course of construction.

"Police officer" means any member of the police force.

"Person" includes aliens as well as British subjects.

"Document" includes part of a document.

"Model" includes design, pattern, and specimen.

"Office under Her Majesty" includes any office or employment in or under any department of the Government.

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

**3** (1) Any person who, without the permission in writing of the Governor, or contrary to, or in contravention of, the terms of, or the conditions upon which such permission (if any) is granted, obtains or takes, or attempts to obtain or take a sketch or model of any fortification in the island, shall be guilty of an offence against this Ordinance, and on conviction shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, simple or rigorous, for a period not exceeding one year, or to both.

Taking sketch or model of fortification.

(2) Every such permission shall clearly and expressly state the nature of the sketch or model which may be made by the person to whom such permission is given, and the fortification or place of which such sketch or model may be

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made, and such permission may be granted upon such conditions as the Governor thinks fit, but so that in no case shall such permission endure for a longer period than one month from the date thereof.

Possession of sketching materials.

4 Any person who is found in the vicinity of any fortification with sketching materials in his possession, and under such circumstances as render it reasonably probable that he intends to contravene the provisions of the last preceding section, shall be guilty of an offence against this Ordinance, and shall on conviction be liable to a fine not exceeding one hundred rupees.

Trespass.

5 Any person who, without lawful authority or excuse (proof whereof shall lie on the accused), is found in or upon any fortification, or in or upon any place whether fortified or not, which is set apart or reserved for naval or military operations or purposes, and which the general public have no right to enter into or upon, shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding one hundred rupees, or to imprisonment, simple or rigorous, for a period not exceeding six months, or to both.

Obtaining and disclosing information.

6 (1) Every person who—

(a) For the purpose of wrongfully obtaining information when lawfully or unlawfully in any fortification or other such place as aforesaid obtains any document, sketch, model, or knowledge of anything which he is not entitled to obtain; or

(b) Knowingly having possession of or control over any such document, sketch, model, or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Ordinance, 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) After having been entrusted in confidence by some officer holding office under Her Majesty with any document, sketch, model, or information relating to any fortification or such other place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully, and in breach of such confidence, communicates the same, when in the interest of the State it ought not to be communicated;

shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding two hundred rupees, or to imprisonment, simple or rigorous, for a period not exceeding one year, or to both.

(2) Every person who, having possession of any document, sketch, model, or information relating to any fortification or such other place as aforesaid, or to the naval or military affairs of Her 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

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not in the interest of the State to be communicated at that time, shall be guilty of an offence, and shall on conviction be liable to the same punishment as if he committed an offence under the last preceding section.

**7** Where a person commits any act declared in section 3 or 6 to be an offence, such person shall, if he intended to communicate to a foreign State any information, document, sketch, model, or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with imprisonment, simple or rigorous, for a term which may extend to five years, or with fine, or with both.

Communication  
to a foreign  
State.

**8** (1) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, 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, 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, he shall be guilty of a breach of official trust.

Breach of official  
trust.

(2) A person guilty of a breach of official trust shall—

- (a) If the communication was made or attempted to be made to a foreign State, be punished with imprisonment, simple or rigorous, for a term which may extend to ten years, or with fine, or with both.
- (b) In any other case, be punished with imprisonment, simple or rigorous, for a term which may extend to five years, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy; and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

**9** All sketches, models, and documents obtained or taken in contravention of this Ordinance, and all sketching materials found in the possession of any person who is convicted of an offence against this Ordinance, may be seized, and shall be forfeited. And it shall be lawful for any court holding an inquiry into any offence against this Ordinance by its order to declare such forfeiture, and all things forfeited shall be dealt with as the Governor directs.

Forfeiture.

**10** Every offence under this Ordinance shall be a cognizable offence, and any commissioned or non-commissioned officer in Her Majesty's naval or military forces, or any soldier who is employed as a caretaker in any fortification, or any police officer, may, with or without any warrant or other process, apprehend or cause to be apprehended

Every offence  
cognizable.  
Who may arrest.

any person offending against this Ordinance, or suspected of so offending, and may bring such person or cause him to be brought before a police magistrate for the purpose of being dealt with according to law.

**Bailable and non-bailable offences.**

**11** The offences defined in sections 3, 4, 5, and 6 shall be bailable; and the offences defined in sections 7 and 8 shall be non-bailable.

**Restriction on prosecutions.**

**12** No prosecution for an offence against this Ordinance shall be instituted except with the sanction of the Attorney-General or Solicitor-General.

**Jurisdiction of police courts.**

**13** Every offence under section 3, 4, 5, or 6 may be inquired into, tried, and determined by the police court within the limits of whose jurisdiction such offence is committed wholly or in part, and such court shall have jurisdiction to award the maximum punishment prescribed therefor, anything in "The Criminal Procedure Code, 1883," to the contrary notwithstanding.

**Defendant may tender himself as a witness.**

**14** A person charged with an offence against this Ordinance may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon may give evidence in the same manner and with the like effect and consequences as any other witness.

**Banishment.**

**15** Any person not being a natural born subject of Her Majesty, who is convicted of an offence against this Ordinance may, in addition to any punishment which may be awarded under the preceding sections, be banished from the colony by order of the Governor in Executive Council, in such manner and for such period as to the Governor in Executive Council may seem fit; but every such order shall forthwith be reported to Her Majesty's Principal Secretary of State for the Colonies.

12th November, 1890.

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